

**U.S. General Services Administration  
Invitation for Bids**

**SALE OF GOVERNMENT REAL PROPERTY**

**Mountain Creek Industrial Center  
9314 W. Jefferson Blvd  
Grand Prairie, TX 75211**

**Sale No. GSA-R-1635**

This Property is located at 9314 W. Jefferson Blvd, Grand Prairie, TX 75211. The Property contains approximately 425 acres of commercial / industrial real estate located in western Dallas County, Texas just 20 minutes from downtown Dallas, 30 minutes from Ft. Worth and 20 minutes from DFW airport.

Sealed Bids in duplicate, for the purchase of the Government property described in the Schedule portion of this Invitation for Bids will be received until **2:00 P.M., Central Time** at place of **bid opening, June 7, 2011**, General Services Administration (7PZ), Real Property Disposal Division, Room 8A10, 819 Taylor Street, Fort Worth, Texas 76102.

This Invitation for Bids is issued subject to, and bids submitted pursuant to this Invitation for Bids must be in compliance with and subject to, the provisions of this Invitation for Bids, including the Schedule portion thereof, and (1) the Instructions to Bidders (2) the General Terms of Sale (3) the provisions of Bid Form and (5) the Quitclaim Deed form, all of which are attached to this Invitation for Bids and by this reference made a part thereof.

**Sale Summary**

Sale Type: Sealed Bid Sale

**Bid Opening Date:**

**June 7, 2011 at 2:00 P.M. CDT**

Registration Deposit: **\$95,000.00 Cash plus a Letter of Credit for total of 10% of Bid**

**Sales Information**

William Rollings  
817-978-4324  
[William.rollings@gsa.gov](mailto:William.rollings@gsa.gov)

**GSA Control Number 7-N-TX-0846**

**Property Disposal Web Page**

<https://propertydisposal.gsa.gov>

Click on Texas to view and download Property Sales information

**Submit Sealed Bids and Letter of Credit to:**

U.S. General Services Administration  
Office of Real Property Disposal (7PZ)  
819 Taylor Street, Room 8A10  
Fort Worth, TX 76102  
Attn: William Rollings

**Inspection Opportunities:**

The property will be available to view during scheduled events. Please check the website or contact William Rollings at (817) 978-4324 or [William.rollings@gsa.gov](mailto:William.rollings@gsa.gov) for more information.

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# **I. PROPERTY DESCRIPTION**

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## **LOCATION AND SETTING**

The Mountain Creek Industrial Center (MCIC) is located at 9314 W. Jefferson Blvd., Grand Prairie, Texas. The property comprises 425 acres± of commercial / industrial real estate located in western Dallas County, Texas just 20 minutes from downtown Dallas, 30 minutes from Ft. Worth and 20 minutes from DFW airport.

The MCIC is composed of two distinct parcels of real estate: Tract I – approximately 314.880 acres, more or less (hereinafter identified sometimes referred to as the “Manufacturing Facility”); and Tract II – approximately 110.087 acres, more or less, (hereinafter sometimes referred to as “Cottonwood Bay”). More specifically, Cottonwood Bay is comprised of approximately 79 water acres with approximately 31 acres of additional undeveloped land. Currently the Manufacturing Facility is 100% leased to Triumph Aerostructures – Vought Aircraft Division. Cottonwood Bay offers several additional areas of undeveloped land for potential expansion/diversification of the industrial/manufacturing base. The Manufacturing Facility includes approximately 4.8 million square feet of improvements in 171 buildings with on-site rail intermodal and easy access to Interstate-30.

## **LEGAL DESCRIPTION**

Legal Description – Tract 1 - Manufacturing Facility:

BEING a 314.880 acre tract of land situated in the Perry Finney Survey, Abstract No. 777, the Rowland Huitt Survey, Abstract No 616, the Elizabeth Crockett Survey, Abstract No. 222 and the John W. Kirk Survey, Abstract No 726, the City of Dallas, Dallas County, Texas and being all of those certain tracts of land described as FIRST TRACT, THIRD TRACT, FOURTH TRACT, FIFTH TRACT, SIXTH TRACT and the remainder of called SECOND TRACT as described to the United States of America (USA) by deed recorded in Volume 2918, Page 515 of the Deed Records of Dallas County, Texas (DRDCT) and all of that called 43.94 acre tract of land described to USA by deed recorded in Volume 3879, Page 552, DRDCT, said 314.880 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a brass monument (controlling monument) found for the northeast corner of said FIFTH TRACT and northwest corner of the remainder of a called 75.3 acre tract of land described to the City of Dallas by deed recorded in Volume 2274, Page 632, DRDCT and also being in the southerly right-of-way line of Jefferson Avenue (a variable width right-of- way);

THENCE, South 00°26'56" East, along the easterly line of said FIFTH TRACT and the westerly line of the remainder of said 75.3 acre tract of land and along the easterly line of said 43.94 acre tract of land, the westerly line of that certain tract of land described as TRACT NO 1 to the City of Dallas by deed recorded in Volume 2274, Page 629, DRDCT and the westerly line of a called 347 acre tract of land described to the City of Dallas by deed recorded in Volume 2691, Page 315, DRDCT, a distance of 2795.44 feet to a brass monument (controlling monument) found for the southeast corner of said 43.94 acre tract of land and a southwest corner of said 347 acre tract of land and being in the northerly line of the remainder of that certain tract of land described as FIFTH TRACT to Dallas Power and Light Company by deed recorded in Volume 1992, Page 1, DRDCT;

THENCE, along the southerly line of said 43.94 acre tract of land and the northerly line of said remainder of FIFTH TRACT, the following five courses and distances:

North 80°18'20" West, a distance of 329.36 feet to a point for corner; South 56°20'40" West, a distance of 91.97 feet to a point for corner; South 89°54'40" West, a distance of 308.50 feet to a point for corner;

North 79°48'20" West, a distance of 359.60 feet to a point for corner;

North 71°22'10" West, a distance of 315.98 feet to a point for corner in the approximate shore line of Mountain Creek Lake;



THENCE, along the approximate shore line of Mountain Creek Lake, the following six courses and distances:

South 00°32'20" East, a distance of 519.36 feet to a point for corner;

South 83°55'36" West, a distance of 156.86 feet to a point for corner;

South 26°57'10" West, a distance of 213.22 feet to a point for corner;

South 41°04'15" West, a distance of 128.12 feet to a point for corner;

South 67°43'33" West, a distance of 205.50 feet to a point for corner;

North 81°04'56" West, a distance of 59.37 feet to the southernmost southwest corner of, said FIRST TRACT and easternmost southeast corner of that certain tract of land described as TRACT to Vought Aircraft Industries, Inc. by deed recorded in Volume 2000146, Page 3042, DRDCT;

THENCE, North 01°17'28" West, along a westerly line of said FIRST TRACT and the easterly line of said TRACT III, a distance of 266.00 feet to an interior ell corner of said FIRST TRACT and the northeast corner of said TRACT III;

THENCE South 88°42'32" West, along a southerly line of said FIRST TRACT and the northerly line of said TRACT III, a distance of 511.20 feet to the southwest corner of said FIRST TRACT and the northwest corner of said TRACT III and being in the easterly line of said FOURTH TRACT;

THENCE, South 01°11'28" East, along the easterly line of said FOURTH TRACT and the westerly line of said TRACT III, a distance of 648.13 feet to the southeast corner of said FOURTH TRACT and being in the northerly right-of-way line of Skyline Road (a 100 foot right-of-way);

THENCE, North 89°51'01" West, along the southerly line of said FOURTH TRACT and the northerly right-of-way line of said Skyline Drive and along the southerly line of said remainder of SECOND TRACT, a distance of 1001.31 feet to the southwest corner of said remainder of SECOND TRACT and the southeast corner of a called 21.0251 acre tract of land described to the City of Grand Prairie by deed recorded in Volume 792, Page 252, DRDCT;

THENCE, North 01°26'12" West, along the westerly line of said remainder of SECOND TRACT and the easterly line of said 21.0251 acre tract of land and along the easterly line of a called 9.96 acre tract of land described to Sid Sharbaf by deed recorded in Volume 2004043, Page 14865, DRDCT, a distance of 1126.25 feet to the northwest corner of said remainder of SECOND TRACT and the northeast corner of said 9.96 acre tract of land and being in the southerly line of said THIRD TRACT;

THENCE, South 89°34'27" West, along the southerly line of said THIRD TRACT and the northerly line of said 9.96 acre tract of land and along the northerly line of that certain tract of land described as 1R by final plat of LOTS 1R AND 2R, BLOCK 2, SOL SPIGEL VILLAGE, FIRST INCREMENT, an addition to the City of Grand Prairie recorded in Volume 80247, Page 770, DRDCT, a distance of 1114.57 feet to the southwest corner of said THIRD TRACT and the northwest corner of said 1R and being in the easterly right-of-way line of SE 14th Street (a variable width right-of-way);

THENCE, North 00°28'33" West, along the westerly line of said THIRD TRACT and the easterly right-of-way line of said SE 14th Street and along the westerly line of said FIRST TRACT, a distance of 2470.42 feet to the northwest corner of said FIRST TRACT and being in the southerly right-of-way line of aforementioned Jefferson Avenue;

THENCE, North 85°59'56" East, along the northerly line of said FIRST TRACT and the southerly right-of-way line of said Jefferson Avenue, a distance of 4601.18 feet to the POINT OF BEGINNING;

CONTAINING a calculated area of 13,716,154 square feet or 314.880 acres of land, more or less.

The tract of land herein described was taken from the survey conducted by Lyndon M. Hodgin, a Registered Professional Land Surveyor, Texas Registration Number 4584, dated November 29, 2007.



## **Legal Description – Tract II - Cottonwood Bay**

Being a 110.087 acre tract of land situated in the Washington F. Crawford Survey, Abstract No. 291, the Perry Linney Survey, Abstract No. 777 and the Rowland Huitt Survey, Abstract No. 616, City of Dallas, Dallas County, Texas and being all of the remaining portions of those certain tracts of land described as Second Tract, Fifth Tract, Twenty-Ninth Tract and Thirty-First Tract as described to Dallas Power and Light Company (DP&L) by deed recorded in Volume 1992, Page 1 of the Deed Records of Dallas County, Texas (DRDCT), all of the remaining portion of that certain called 126.71 acre tract of land described to DP&L by deed recorded in Volume 1665, Page 554, DRDCT, said 110.087 acre tract of land being more particularly described by metes and bounds as follows:

Beginning at a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for the northwest corner of said remaining portion of Thirty-First Tract and being the point of intersection of the south right-of-way line of Skyline Road (a 100 foot wide right-of-way), with the east right-of-way line of SE 14th Street (a 100 foot wide right-of-way);

Thence North 89°47'57" East, along a north line of said Thirty-first Tract and the south right-of-way line of said Skyline Road, passing at a distance of 1,536.69 feet the southeast corner of said Skyline Road and the southwest corner of that certain tract of land as described to Vought Aircraft Industries, Inc. by deed recorded in Volume 2000146, Page 3042, DRDCT, and continuing in all for a total distance of 1,643.32 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for the southwest corner of said remaining portion of Fifth Tract, southeast corner of said Vought Aircraft Industries, Inc. tract of land;

Thence continuing along the northwesterly line of said remaining portion of Fifth Tract and along the southeasterly line of said Vought Aircraft Industries, Inc. tract of land, the following courses and distances:

North 33°54'38" East, a distance of 555.95 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

North 68°13'38" East, passing at a distance of 89.00 feet, the southeast corner of said Vought Aircraft Industries, Inc. tract of land and the southwest corner of that certain called 14.43 acre tract of land as described to United States of America (USA) by deed recorded in Volume 4693, Page 198, DRDCT and continuing in all for a total distance of 362.00 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

Thence continuing along the northwesterly line of said remaining portion of Fifth Tract and the southeasterly line of said USA tract of land, the following courses and distances:

North 29°25'11" East, a distance of 335.00 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LOG" set for corner;

North 89°24'11" East, passing at a distance of 78.66 feet the southeast corner of said USA tract of land, the northeast corner of said remaining portion of Fifth Tract and the westerly line of abandoned Hardy Road, said abandonment described as Tract No.1 and Tract No.2 by City of Dallas Ordinance No. 8034 and continuing in all for a total distance of 128.66 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner in the center line of said abandoned Hardy Road;

Thence North 00°21'06" West, along the center line of said abandoned Hardy Road, a distance of 508.82 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for the southwest corner of that certain called 43.94 acre tract of land as described to the United States of America by deed recorded in Volume 3879, Page 552, DRDCT;

Thence along the southerly line of said 43.94 acre USA tract of land, the following courses and distances:

South 59°23'52" East, a distance of 16.09 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LOG" set for corner;

South 72°32'52" East, passing at a distance of 38.02 feet to the northwesterly corner of the remaining portion of said 126.71 acre DP&L tract of land and being in the easterly line of said



abandoned Hardy Road, and continuing in all for a total distance of 333.60 feet to a 2-inch brass disk in concrete (controlling monument) found for corner;

South 80°06'52" East, a distance of 358.26 feet to a 2-inch brass disk in concrete (controlling monument) found for corner;

North 89°55'54" East, a distance of 314.66 feet to a 2-inch brass disk in concrete found for corner;

North 55°05'30" East, a distance of 91.74 feet to a 2-inch brass disk in concrete found for corner;

South 80°29'27" East, passing at a distance of 329.54 feet the southeast corner of said 43.94 acre USA tract of land and a southwest corner of the remaining portion of that certain called 347 acre tract of land as described to the City of Dallas by deed recorded in Volume 2691, Page 315, DRDCT and continuing in all for a total distance of 478.52 feet to a point for corner in a 8 inch tree;

Thence along the easterly line of the remaining portion of said 126.71 acre DP&L tract of land and the northwesterly line of said City of Dallas tract of land, the following courses and distances:

South 05°06'08" East, a distance of 64.95 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 44°25'52" West, a distance of 892.99 feet to a point for corner;

South 74°12'52" West, a distance of 346.45 feet to a 5/8-inch iron rod with a yellow plastic cap stamped "LGG" set for corner;

South 48°13'52" West, a distance of 409.57 feet to a 5/8-inch iron rod with a yellow plastic cap stamped "LGG" set for corner;

South 88°58'52" West, a distance of 199.76 feet to a point for corner;

North 01°01'08" West, a distance of 149.80 feet to a point for corner;

Thence South 89°13'52" West, passing at a distance of 30.14 feet the westernmost southwest corner of the remaining portion of said 126.71 acre DP&L tract of land and the easterly line of said abandoned Hardy Road, passing at a distance of 80.14 feet the center line of said Hardy road, passing at a distance of 130.15 feet the easterly line of the remaining portion of said Fifth Tract and the westerly line of said abandoned Hardy Road and continuing in all for a total distance of 140.29 feet to a point for corner;

Thence along the northwesterly line of said City of Dallas tract of land, the following courses and distances:

South 01°01'08" East, a distance of 187.52 feet to a point for corner;

South 25°13'52" West, passing at a distance of 94.06 feet the southwest corner of the remaining portion of said Fifth Tract and the northeast corner of the remaining portion of said Twenty- Ninth Tract and continuing in all for a total distance of 251.87 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 56°26'52" West, a distance of 310.57 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 42°52'52" West, a distance of 397.45 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 53°05'52" West, passing at a distance of 307.29 feet the southernmost corner of the remaining portion of said Twenty-Ninth Tract and the easternmost southeast corner of the remaining portion of said Thirty-First Tract and continuing in all for a total distance of 507.12 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LOG" set for corner;

South 28°50'52" West, passing at a distance of 97.72 feet the southernmost southeast corner of the remaining portion of said Thirty-First Tract and the northeast corner of the remaining portion



of said Second Tract and continuing in all for a total distance of 191.33 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 55°00'52" West, a distance of 76.75 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LOG" set for corner;

South 29°23'52" West, a distance of 269.37 feet to a point for corner; South 33°05'08" East, a distance of 162.65 feet to a point for corner; North 80°34'08" West, a distance of 24.09 feet to a point for corner; North 55°01'08" West, a distance of 143.16 feet to a point for corner;

South 48°13'52" West, a distance of 409.57 feet to a 5/8-inch iron rod with a yellow plastic cap stamped "LGG" set for corner;

South 46°15'52" West, a distance of 163.33 feet to a point for corner;

South 20°49'52" West, a distance of 201.26 feet to a 5/8-inch iron rod with a yellow plastic cap stamped "LOG" set for corner;

South 45°48'52" West, passing at a distance of 526.64 the southeast corner of the remaining portion said Second Tract and the northeast corner of the remaining portion of said 11.02 acre DP&L tract of land and continuing in all for a total distance of 709.56 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 30°23'52" West, a distance of 300.23 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 46°53'52" West, a distance of 150.53 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

South 89°28'16" West, a distance of 159.36 feet to 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for the southwest corner of the remaining portion of said 11.02 acre DP&L tract of land and being in the east right-of-way line of aforementioned SE 14th Street;

THENCE North 00°38'09" West, along said east right-of-way line, passing at a distance of 481.71 feet the northwest corner of the remaining portion of said 11.02 acre DP&L tract of land and the southwest corner of the remaining portion said Second Tract and continuing in all for a total distance of 1,026.01 feet to a 5/8-inch iron rod with cap stamped "PBS&J" (controlling monument) found for the southwest corner of that certain called 1.36 acre tract of land as described to Trinity River Authority (TRA) by deed recorded in Volume 5015, Page 463, DRDCT;

THENCE along the common line between the remaining portion of said Second Tract and said TRA tract of land the following courses and distances: North 89°21'51" East, a distance of 163.30 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for corner;

North 78°07'51" East, a distance of 87.80 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for the southeast corner of said TRA tract of land;

North 00°38'09" West, a distance of 182.70 feet to a 5/8-inch iron rod with cap stamped "PBS&J" found for the northeast corner of said TRA tract of land;

South 89°21'51" West, a distance of 249.41 feet to a 5/8-inch iron rod with cap stamped "PBS&J" found for the northwest corner of said TRA tract of land and being in said east right-of-way line;

THENCE North 00°38'09" West, along said east right-of-way line, a distance of 93.39 feet to a 5/8-inch iron rod with cap stamped "PBS&J" (controlling monument) found for the southwest corner of that certain called 0.858 acre tract of land as described to TXU Electric Delivery Company (TXU) by deed recorded in Volume 2001248, Page 11540, DRDCT;

THENCE along the common line between the remaining portion of said Second Tract and said TXU tract of land the following courses and distances:

North 88°22'76" East, a distance of 248.47 feet to a 5/8-inch iron rod with cap stamped "PBS&I" found for the southeast corner of said TXU tract of land;



North 00°25'30" West, a distance of 148.32 feet to a 5/8-inch iron rod with cap stamped "PBS&J" found for the northeast corner of said TXU tract of land;

South 89°17'16" West, a distance of 248.98 feet to a 5/8-inch iron rod with yellow plastic cap stamped "LGG" set for the northwest corner of said TXU tract of land and being in said east right-of-way line;

THENCE North 00°38'09" West, along said east right-of-way line, passing at a distance of 80.39 the northwest corner of said Second Tract and the southwest corner of the remaining portion of said Thirty-First Tract and continuing in all for a total distance of 1085.53 feet to POINT OF BEGINNING, and containing a calculated area of 4,795,389 square feet or 110.087 acres of land, more or less.

The tract of land herein described was taken from the survey conducted by Lyndon M. Hodgin, a Registered Professional Land Surveyor, Texas Registration Number 4584, dated August 26, 2008.

(Tracts 1 and 2 are hereinafter sometimes jointly referred to as the "Property")



## II. SPECIFIC RESERVATIONS, OUTSTANDING INTERESTS, AND EXCEPTIONS TO TITLE

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1. This sale is made on the basis that the following described rights, titles and interests shall be reserved unto the United States of America (hereinafter sometimes referred to as the "Government", and its assigns from and out of the hereinabove described property and the final instrument of conveyance (hereinafter referred to as the "Deed Without Warranty") shall contain the following terms and provisions of reservation:
  - a) **SAVE AND EXCEPT, and there is hereby excepted and reserved unto the UNITED STATES OF AMERICA**, all rights and interests which have been previously reserved to the United States in the Patent(s) which cover(s) the Property.
  - b) **SAVE AND EXCEPT, and there is hereby excepted and reserved unto the UNITED STATES OF AMERICA**, and its assigns, all right, title and interest in and to all oil, gas, hydrocarbons, and other minerals that may be produced in and under the Property; including, but not limited to the following attributes in connection with its right to take, develop and produce such oil, gas, hydrocarbons, and minerals: (1) the right of ingress and egress to the Property, (2) the right to lease, (3) the right to receive bonus payments, (4) the right to receive delay rentals, and (5) the right to receive royalty payments.
2. This sale is made and the conveyance of the hereinabove described property shall be made subject to the following outstanding interests and exceptions to title which shall be set forth in the Deed Without Warranty in the following manner:
  - a) Notice is hereby given that Triumph Aerostructures – Vought Aircraft Division currently occupies the Manufacturing Facility as a tenant under that certain real estate lease agreement between the United States of America and Triumph Aerostructures – Vought Aircraft Division, as more fully described in the lease agreement, a copy which is included at GSA Property Disposal Webpage at <https://propertydisposal.gsa.gov>.
  - b) All existing leases, licenses, permits, easements and rights-of-way for public streets, roads and highways, public utilities, electric power lines, electric transmission facilities, railroads, pipelines, ditches, conduits and canals on, over and across said land, whether or not of record; including, but not limited to, the following:

### **Manufacturing Facility**

- i. Easement granted to the County of Dallas on July 27, 1942, recorded at Volume 2370, page 550, Deed records of Dallas County. This is a 30-foot wide easement along the west boundary of Tract I, the eastern side of Fish Creek Road, is approximately .689 acres for purposes of digging and maintaining an open drainage ditch.
- ii. Easement USA #N62467-88-RP- 00103 from United States to Trinity River Authority of Texas for sanitary sewer construction and maintenance dated February 17, 1988, recorded in Volume 88061, Page 1846, record of the Dallas County Clerk.
- iii. Easement from the City of Dallas to the Defense Plant Corporation dated August 28, 1942 and recorded in Volume 2367, page 519, Deed Records of Dallas County, Texas.
- iv. Easement from the City of Dallas to Lone Star Gas Company dated December 23, 1941 and recorded in Volume 2333, page 393, Deed Records of Dallas County, Texas.

### **Cottonwood Bay**

- i. Standby fees, taxes and assessments by any taxing authority for the year 2008 and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.



- ii. Terms, provisions, easements, and conditions contained and described in Special Warranty Deed, dated December 14, 2001, filed December 20, 2001, recorded in Volume 2001248, Page 11540 and as corrected by Special Warranty Deed, recorded in Volume 2002082, Page 3239, Deed Records, Dallas County, Texas, as shown on survey prepared by Lyndon M. Hodgins, Registered Professional Land Surveyor No. 4584, dated August 26, 2008.
  - iii. Easement granted by Dallas Power and Light Company to Trinity River Authority of Texas, dated March 14, 1988, filed for record on June 10, 1988 and recorded in Volume 88113, Page 2885, Deed Records, Dallas County, Texas, as shown on survey prepared by Lyndon M. Hodgins, Registered Professional Land Surveyor No. 4584, dated August 26, 2008.
  - iv. Terms and conditions in connection with Water Rights over subject property, as evidenced in Certificate of Adjudication recorded in Volume 86030, Page 1180 and as affected by Special Warranty Deed recorded in Volume 2001248, Page 11540 and Special Warranty Deed recorded in Volume 2002082, page 3239 and further being affected by Assignment of Water Rights recorded in Volume 2001248, Page 7789, and in Volume 2002082, Page 3302, Deed Records, Dallas County, Texas.
  - v. Terms, conditions, and stipulations contained in oil, gas, and mineral lease dated January 10, 2008, recorded under Clerk's File No. 20080034458, Real Property Records, Dallas County, Texas, by and between Luminant Mineral Development Company, LLC, as lessor, and XTO Energy, as lessee.
  - vi. Rights of the public and of the State of Texas in and to that part of the property to be insured lying under the waters of Mountain Creek and to the uninterrupted flow of said waters.
  - vii. Rights of the upper and lower riparian owners and of the State of Texas in and to the free and unobstructed flow of water of the Cottonwood Creek, extending through subject property, without diminution or pollution.
  - viii. The consequences of any change in the location of Cottonwood Creek which forms the boundaries of subject property.
  - ix. Conveyance of all the oil, gas, and other minerals, the royalties, bonuses, rentals, and all other rights in connection with same are excepted herefrom, as set forth in instruments recorded under Clerk's File No. 200600171166, under Clerk's File No. 200600171167, under Clerk's File No. 200600171168, under Clerk's File No. 200600171169, and under Clerk's File No. 200600171170 Real Property Records, Dallas County, Texas.
  - x. Any utilities left in place within the bounds of Hardy Road as abandoned by the City of Dallas by Ordinance No. 8034, as shown on survey prepared by Lyndon M. Hodgins, Registered Professional Land Surveyor No. 4584, dated August 26, 2008.
  - xi. Terms, provisions, easements, and conditions contained within Surface Use, Subsurface Use Easement, Access Easement and Pipeline Easement Agreement (Surface Use Agreement), executed by Energy Future Competitive Holdings, a Texas corporation (f/k/a TXU US Holdings), as Government, and XTO Energy Inc., a Delaware corporation, as Purchaser,, dated December 12, 2008, recorded under Clerk's File No. 20080397235 in the Real Property Records in Dallas County, Texas.
  - xii. The terms, provisions, easements and conditions contained within that certain Deed Restriction for Environmental Response Actions and Drilling Operations, executed by Energy Future Competitive Holdings Company, a Texas corporation (f/k/a TXU US Holdings Company), as owner, recorded under Clerk's File No. 20080397236 in the Real Property Records in Dallas County, Texas.
- c) All rights, interests and responsibilities of the United States of America, the Texas Commission on Environmental Quality (TCEQ), and the Purchaser contained in that certain Corrective Action Order for the environmental remediation of the Property, as hereinafter provided the *Restrictions, Terms, Conditions, Agreements, Covenants, and Notice Section* of this Invitation for Bids at

Section VII.2, below, which shall be recorded of record in the Office of the Dallas County Clerk at Closing.

- d) The rights, if any, of the City of Dallas in and to the Hardy Road Bridge access road easement as described in the following documents: (1) the Dallas Power and Light Company deed , dated April 5, 1957, recorded in Volume 4693, Page 198, of the Deed records of Dallas, County; (2) City of Dallas Ordinance 8034, enrolled April 27, 1959, and the City of Dallas Deed, dated August 19, 1959, recorded May 3, 1960, in Book 5326 Page 647, of the Deed Records of Dallas County. Copies of these documents together with the U.S. Navy Hardy Road Abandonment Application before the City of Dallas are located in the GSA Property Disposal Webpage at <https://propertydisposal.gsa.gov>.
- e) All existing interest(s) reserved to or outstanding in third parties in and to water rights, ditch rights, as well as oil, gas and/or minerals, whether or not of record.
- f) All other existing interests reserved by any original Government(s) in chain of title unto said Government(s), their respective successors and assigns, which affects any portion of the property interest(s) hereinabove described, whether or not of record.
- g) Any survey discrepancies, conflicts, or shortages in area of boundary lines, or any encroachments, or protrusions, or any overlapping of improvements, which may affect the subject property.
- h) Existing zoning ordinances and resolutions, soil conservation district rules and regulations, and water conservancy district rules and regulations filed of public record and affecting all or any portion of the subject property.



### III. UTILITIES & SERVICE PROVIDERS

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All typical public utilities are available to the Property, including water, sewer, electrical, gas and telephone. Procurement of utility service shall be the responsibility of the Purchaser as of the date of conveyance. Bidders are urged to contact the utility providers below for information on the availability of utilities.

#### **Electricity**

TXU Energy  
1601 Bryan St  
Dallas, TX 75201  
888-399-5501  
[www.txu.com](http://www.txu.com)

#### **Electricity transmission delivery provider**

Oncor Electric Delivery  
1601 Bryan Street  
Dallas, TX 75201  
888.313.6862  
[www.ou.com](http://www.ou.com)

#### **Natural Gas commodity provider**

Luminant Energy Company, LLC.  
Lincoln Plaza  
500 N. Akard  
Dallas, TX 75201 USA  
214.812.4600  
[www.luminant.com](http://www.luminant.com)

#### **Natural Gas transportation**

Atmos Energy Corporation  
P.O. Box 650205  
Dallas, Texas 75265-0205  
[www.atmosenergy.com](http://www.atmosenergy.com)

#### **Water and Water Utilities (Sewer & Industrial Wastewater)**

City of Dallas.  
Dallas City Hall  
[1500 Marilla Street](#), Room 4A North  
Dallas, TX 75201  
(214) 651-1441  
[http://www.dallascityhall.com/dwu/water\\_utilities.html](http://www.dallascityhall.com/dwu/water_utilities.html)

## IV. GENERAL TERMS OF SALE

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### 1. DEFINITIONS

#### a) INVITATION FOR BIDS

The term "Invitation for Bids" ("IFB") refers to this document and the following items that are attached hereto and incorporated herein: the Property Description; General Terms of Sale; Instructions to Bidders; Notice and Covenants and/or Special Terms of Sale; Bidder Registration and Bid Form for Purchase of Government Property. Should the aforementioned documents be modified or supplemented by any addenda or amendments issued by the Government prior to the conclusion of the online auction, those addenda and amendments shall be part of the IFB.

#### b) GOVERNMENT

The term "Government" as used herein refers to the United States of America, and is used interchangeably with "Seller".

#### c) GENERAL SERVICES ADMINISTRATION

The term "General Services Administration" ("GSA") as used herein refers to the United States General Services Administration, a Federal agency.

#### d) BIDDER(S)

The term "Bidder" or "Bidders" as used herein refers to the offeror or offerors for the purchase of the subject Property, and is used interchangeably with "you."

#### e) HIGH BIDDER

The term "High Bidder" refers to the Bidder, whose bid conforms to the terms and conditions of the IFB, is the highest dollar bid at the close of the auction and is determined by the Government to be the most acceptable bid.

#### f) BACKUP BIDDER

The term "Backup Bidder" refers to the Bidder, whose bid conforms to the terms and conditions of the IFB, is the second-highest dollar bid at the close of the auction and is determined by the Government to be the **second** most acceptable bid.

#### g) PURCHASER

The term "Purchaser" refers to the Bidder whose bid the Government accepts, and is used interchangeably with "Buyer".

#### h) PROPERTY

The term "Property" refers to the property or properties described on the Property Description of this IFB.

#### i) AS-IS

The term "As-Is" means that the Government is selling, and the Buyer is buying the Property in whatever condition it presently exists, and that the Buyer is accepting the Property "with all faults," whether or not they could be ascertained by an inspection of the Property or review of any due diligence material available.

#### j) WHERE-IS

The term "Where-Is" means that the Government is selling, and the Buyer is buying, the Property in whatever location it presently exists.



## 2. DESCRIPTION PROVIDED IN IFB

The description of the Property, and all other information provided with respect to the Property set forth in the IFB, are based on the best information available to the GSA, Office of Real Property Utilization and Disposal (7PZ) and are believed to be correct. Any error or omission, including but not limited to, the omission of any information available to the agency having custody over the Property and/or any other Federal agency, shall NOT constitute grounds or reason for nonperformance of the contract of sale, or claim by purchaser for allowance, refund or deduction from the purchase price.

## 3. INSPECTION

The property will be available to view by appointment only. Additional information can be obtained on the website <https://propertydisposal.gsa.gov>

For information call **William Rollings** at **817-978-4324** or write to Real Property Utilization and Disposal Division, (7PZ), General Services Administration (GSA), 819 Taylor Street, Suite 8A10, Fort Worth, TX 76102. **E-Mail Address** is **William.rollings@gsa.gov**.

**No one will be allowed access to the Property without the presence of a GSA employee or its designee.**

Bidders are invited, urged, and cautioned to inspect the Property prior to submitting a bid. The failure of any bidder to inspect, or to be fully informed as to the condition of all or any portion of the Property, will not constitute grounds for any claim or demand for adjustment or withdrawal of a bid after the auction.

## 4. CONTRACT

The IFB and the bid, when accepted by the Government shall constitute an agreement for sale ("Agreement") between the high bidder ("Purchaser") and the Government. Such agreement shall constitute the whole contract to be succeeded only by the formal instrument(s) of transfer, unless modified in writing and signed by both parties. No oral statements or representations made by, or for, or on behalf of either party shall be a part of such contract. In addition, the Purchaser shall not transfer or assign the Agreement without the expressed written consent of the Government. Any assignment transaction without such consent shall be void.

## 5. CONDITION OF PROPERTY

The Property is offered for sale **"AS IS" AND "WHERE IS"** without representation or warranty, expressed or implied. The Purchaser, and Purchaser's successors and assigns, or any party-in-possession of the Property, or any part thereof, further acknowledges that the Government makes no representations or warranty concerning the title, zoning, character, condition, size, quantity, quality and state of repair of the Property. The Government makes no other agreement or promise to alter, improve, adapt or repair the Property not otherwise contained herein. Purchaser shall rely solely on its own due diligence and examination of the Property. Purchaser acknowledges their express understanding and stipulation that there are no claims or any allowances or deductions upon grounds that the Property is not in condition or fit to be used for the purpose of which intended by the Purchaser after the conclusion of the auction.

## 6. ZONING

Verification of the present zoning and determination of permitted uses, along with compliance of the Property for any proposed future use, shall be the responsibility of the bidder; and the Government makes no representation in regard to zoning matters. Any inaccuracies or changes in the zoning information shall NOT be cause for adjustment or rescission of any contract resulting from this IFB.

## 7. RISK OF LOSS

As of the date of assumption of possession of the Property or the date of conveyance, whichever occurs first, the Purchaser shall assume all responsibility for care and handling and all risks of loss or damage to the Property, including but not limited to all buildings and other improvements located thereon, and assume all obligations and liabilities of ownership and no claim for any allowance or deduction upon such grounds will be considered after the bid opening or conclusion of an auction.



## **8. TAXES, ASSESSMENTS AND OTHER COSTS**

As of the date of assumption of possession of the Property, or the date of conveyance, whichever occurs first, the Purchaser shall assume responsibility for all general and special real and personal property taxes or other assessments which have been or may be assessed on the Property, and for all sums due to be paid by the Government in lieu of taxes, which amount shall be prorated.

## **9. REVOCATION OF BID AND DEFAULT**

In the event of revocation of a bid after the conclusion of an auction, but prior to acceptance of the high bid by the Government, or in the event of revocation of a bid after notice of acceptance, or in the event of any default by the Purchaser in the performance of the contract of sale created by such acceptance, or in the event of failure by the Purchaser to consummate the transaction, the Purchaser agrees that the deposit paid the Government in any acceptable form, including credit card, together with any payments subsequently made on account, may be forfeited at the option of the Government as damages for breach of contract, in which event the Purchaser shall be relieved from further liability. Otherwise, without forfeiting the said deposit and payments, the Government may avail itself of any legal or equitable rights which it may have under the bid or contract of sale.

## **10. GOVERNMENT LIABILITY**

If the Government accepts a bid for the purchase of the Property and (1) the Government fails for any reason to perform its obligations as set forth herein; or (2) title does not transfer or vest in the Purchaser for any reason, although Purchaser is ready, willing, and able to close; or (3) any other contractual claim or cause of action hereafter accrues in favor of Purchaser under the terms of this IFB, Government's liability to Purchaser shall be strictly limited to all amounts of money Purchaser has paid to Government without interest whereupon Government shall have no further liability to Purchaser.

## **11. TITLE EVIDENCE**

Any bidder, at its sole cost and expense, may procure any title evidence that the said bidder desires. The Government will, however, cooperate with the Purchaser or his or her authorized agent in this transaction, and will permit examination and inspection of such deeds, abstracts, affidavits of title, judgments in condemnation proceedings, or other documents relating to the title of the premises and Property involved, as it may have available. It is understood and agreed that the Government is not obligated to pay for any expense incurred in connection with title matters or survey of the Property.

## **12. TITLE**

If a bid for the purchase of the Property is accepted, a Deed Without Warranty in conformity with local law and practice will convey the Government's interest. A bill of sale will be utilized to convey personal property, if necessary. The Government does not pay for or provide title insurance.

## **13. EASEMENTS, ENCROACHMENTS AND RESERVATIONS**

The Property will be sold subject to any and all covenants, reservations, easements, restrictions, encroachments, and rights, recorded or unrecorded, in favor of third parties, for highways, streets, power lines, telephone lines and equipment, pipelines, drainage, sewer and water mains and lines, public utilities, public roads, railroads and other rights-of-way, and any easements, reservations, rights and covenants reserved by the Government herein.

## **14. COVENANT AGAINST CONTINGENT FEES**

The Purchaser warrants that he or she has not employed or retained any person or agency to solicit or secure this contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul the contract without liability or in its discretion to recover from the Purchaser the amount of such commission, percentage, brokerage, or contingent fee in addition to the consideration herewith set forth. This warranty shall not apply to commissions payable by the Purchaser upon the contract secured or made through bona fide established commercial agencies maintained by the Purchaser for the



purpose of doing business. "Bona fide established commercial agencies" has been construed to include licensed real estate brokers engaged in the business generally.

**15. TENDER OF INITIAL DEPOSIT, ADDITIONAL CONDITIONAL PRE-CLOSING INSTALLMENT PAYMENTS, FINAL PAYMENT, AND DELIVERY OF INSTRUMENT OF CONVEYANCE**

- a) **The closing date of the sale is One Hundred Eighty (180) calendar days after acceptance of the bid.** Upon agreement by the Government, the Purchaser may close the transaction prior to the One Hundred Eighty (180) calendar days after acceptance of the bid price in the form of a cashier's check, certified check or electronic wire transfer and upon Bidder's successful enjoinder to the Corrective Action Order as described in Section VI.15.e, below.
- b) **The Initial Deposit in the amount reflecting 10% of the Purchase Price shall be tendered with the bid in the form of a \$95,000.00 cashier's or certified check and the remainder in the form of an irrevocable letter of credit in the form specified in this IFB.**
- c) **The First Pre-Closing Installment reflecting 30% of the Purchase Price shall be tendered to the Government within Forty Five (45) calendar days after acceptance of the bid price** in the form of a cashier's check, certified check or electronic wire transfer. In addition, Bidder shall have delivered and TCEQ is reviewing the Bidder's Corrective Action Order Application as further discussed in SPECIFIC ENVIRONMENTAL RESTRICTIONS, TERMS, CONDITIONS, AGREEMENTS, COVENANTS, AND NOTICES section below.
- d) **The Second Pre-Closing Installment reflecting 60% of the Purchase Price shall be tendered to the Government within Ninety (90) calendar days after acceptance of the bid price** in the form of a cashier's check, certified check or electronic wire transfer. In addition, Bidder shall have timely responded to all TCEQ requests for information in connection with the Bidder's Corrective Order Application and Bidder has obtained from TCEQ and Government for proposed financial assurances as further discussed in SPECIFIC ENVIRONMENTAL RESTRICTIONS, TERMS, CONDITIONS, AGREEMENTS, COVENANTS, AND NOTICES section below.
- e) **Within 30 days of the closing date, the Purchaser shall tender to the Government the approved Corrective Action Order. The remaining balance of the purchase price is due payable by electronic wire transfer.** Upon written confirmation that: (i) the Purchaser has obtained from TCEQ the Corrective Action Order for the environmental remediation of the Property TCEQ as hereinafter provided, and (ii) Purchaser's wire transferred funds have been received by the Government or that Purchaser's funds by check have been confirmed to the satisfaction of the Government, the Government shall deliver to the Purchaser the instrument, or instruments, of conveyance. Possession of the Property will be assumed by the Purchaser at the time of closing.

**16. DELAYED CLOSING**

Any change to the established closing date is subject to the written approval by the Government. The Government reserves the right to refuse a request for extension of closing. However, if the Government grants an extension, the Purchaser shall pay either: (i) a liquidated damages assessment of \$2500.00 per day; or (ii) interest on the outstanding balance of the purchase price, whichever is greater, if the closing of the sale is delayed, and the delay is caused, directly or indirectly, by the Purchaser's action or inaction and not by any action on the part of the Government. The interest rate shall be computed based on the yield of 10-year United States Treasury maturities as reported by the Federal Reserve Board in "Federal Reserve Statistical Release H.15" plus 1-1/2% rounded to the nearest one-eighth percent (1/8%) as of the date of bid acceptance. The Government may impose additional terms and conditions to grant an extension.

**17. CLOSING COSTS, DOCUMENTARY STAMPS AND COST OF RECORDING**

- a) All closing costs, including escrow and financing fees, shall be borne solely by the Purchaser. The Purchaser shall pay all taxes and fees imposed on this transaction and shall obtain at

Purchaser's own expense and affix to all instruments of conveyance and security documents such revenue and documentary stamps as may be required by Federal, state and local law.

- b) All instruments of conveyance and security documents shall be placed on record in the manner prescribed by local recording statutes at the Purchaser's expense.
- c) A conformed copy of the recorded quitclaim deed shall be provided by the Purchaser to GSA, within five (5) business days after recording, at the following address:

U.S. General Services Administration  
Office of Real Property Utilization and Disposal (7PZ)  
819 Taylor Street, Room 8A10  
Fort Worth, TX 76102  
Attn: William Rollings

#### **18. OFFICIALS NOT TO BENEFIT**

No member or delegate to the Congress, or resident commissioner shall be admitted to any share or part of the contract of sale or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the contract of sale if made with a corporation for its general benefit. GSA employees are prohibited from bidding on the Property offered in the IFB.

#### **19. ANTITRUST LAWS**

The contract made by the acceptance of bid by the Government may be transmitted to the Attorney General of the United States for advice as to whether the sale would tend to create or maintain a situation inconsistent with anti-trust laws. The Government may rescind the acceptance of any bid, in case unfavorable advice is received from the Attorney General, without liability on the part of the Government other than to return any and all deposits held by the Government without interest.



## V. INSTRUCTIONS TO BIDDERS

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### 1. BID FORM

- a) **Bids must be submitted in duplicate on the Bid Form accompanying this Invitation for Bids**, and all information and certifications called for thereon must be furnished. Bids submitted in any other manner or which fail to furnish all information or certifications required may be summarily rejected. While faxed or scanned bid forms will not be considered, unless specifically authorized in the Invitation for Bids, bids may be modified or withdrawn by written request prior to the time fixed in this Invitation for Bids for the opening of bids.
- b) Bids shall be filled out legibly with all erasures, strikeouts, and corrections initialed by the person signing the bid and the bid must be manually signed.
- c) Negligence on the part of the bidder in preparing the bid confers no right for withdrawal or modification of the bid after it has been opened.
- d) In submitting a bid, only return the Bid Form (in duplicate). Retain all other documents, including one copy of the Bid Form, for your record.

### 2. BID ENVELOPES

Envelopes containing bids must be sealed and addressed to the bid receiving office stated in this Invitation for Bids. **The name and address of the bidder must be shown in the upper left corner of the bid envelope, and the Invitation number, the date and hour of bid opening and the phrase "Bid for Real Property" must be shown in the lower left corner of the envelope.** No responsibility will attach to any officer of the Government for the premature opening of or failure to open a bid not properly addressed and identified as follows:

Bid for Real Property  
Sale No. GSA-R-1635  
Bid Opening Date & Time:  
June 7, 2011 2:00P.M.

### 3. LATE BIDS, MODIFICATIONS OF BIDS, OR WITHDRAWAL OF BIDS

- a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is resolved before award is made and either:
  - i. It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier) ; or
  - ii. It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.
- b) Any modification or withdrawal of a bid is subject to the same conditions as in a, above. A bid may also be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.
- c) The only acceptable evidence to establish:
  - i. The date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the US Postal Service postmark on the wrapper or on the original receipt from the US Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the US Postal Service.)



- ii. The time of receipt at the Government installation is the time-date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.
- d) Notwithstanding a and b of this provision, a late modification of an otherwise successful bid which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.
- e) Bidders using certified or registered mail are cautioned to obtain a receipt showing a legible, dated postmark and to retain such receipt against the chance that it will be required as evidence that a late bid was timely mailed.

#### 4. BID EXECUTED ON BEHALF OF BIDDER

- a) A bid executed by an attorney or agent on behalf of the Bidder shall be accompanied by an authenticated copy of their Power of Attorney or other evidence of their authority to act on behalf of the bidder.
  - i. If the Bidder is a corporation, the Certificate of Corporate Bidder, included in this IFB, must be executed. The certificate must be executed under the corporate seal by some duly authorized officer of the corporation other than the officer signing the bid. In lieu of the Certificate of Corporate Bidder, there may be attached to the bid, copies of so much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.
  - ii. If the Bidder is a partnership, and all partners sign the bid, with a notation that they are all general partners, the Government will not ordinarily require any further proof of the existence of the partnership. If all the partners do not sign the bid, then the names of all those except limited partners must be furnished on the bid and the Government, in its discretion, may require evidence of the authority of the signer(s) to execute the bid on behalf of the partnership. The name(s) and signature(s) of the designated bidder(s) must be included on the Bidder Registration and Bid Form.
  - iii. If the Bidder is a limited liability company, a certificate of the LLC must be completed and executed by the manager.

#### 5. BID DEPOSIT AND IRREVOCABLE LETTER OF CREDIT

Each bid must be accompanied by a 10% or greater earnest money bid deposit. The bid deposit must be in the form of **\$95,000.00** cashier's or certified check plus an irrevocable letter of credit in the form of the "Sample Letter of Credit" contained in this IFB that will bring the total deposit amount to least 10% of the bid. The certified check or cashier's check must be payable to the order of "General Services Administration".

Bidders, at their option, may be named as an alternative payee. This will enable bidders whose bids are rejected to negotiate the instrument once it is returned. When an irrevocable letter of credit is submitted, the demand draft must be payable when accompanied by a written statement that the amount drawn under the credit represents the earnest money deposit required (1) as a guarantee to support an offer made by the successful bidder to purchase the property described in the Invitation for Bids from the United States of America, or (2) as liquidated damages in the event that the successful bidder fails to comply with the terms and conditions of the Invitation for Bids. **Failure to so provide such bid deposit shall require rejection of the bid.** Upon acceptance of a bid, the appropriate bid deposit of the successful bidder shall be applied toward payment of the successful bidder's obligation to the Government. Appropriate bid deposits accompanying bids which are rejected will be returned to bidders, without interest, usually within 5 business days after rejection of the bids.

**An Irrevocable Letter of Credit must meet all of the following requirements:**

- Be in the sample form provided in the IFB.
- Be in the amount that meets the minimum of 10% of the bid over the \$95,000.00 cash deposit.



- Be issued from a U.S. chartered bank with branches in the State of Texas. The issuing bank must be a federally insured institution rated investment grade or higher.
- Be bank issued numbered for reference.
- Reference the GSA Invitation for Bid number GSA-R-1635.
- Be irrevocable for a minimum of 180 calendar days from the start of the auction.
- Name the "United States of America" as beneficiary on the Letter of Credit.
- Provide that payment shall be made on demand by the Government's Contracting Officer upon any default for the purchase of Mountain Creek Industrial Center.
- Be notarized.

The Government will not pay nor provide any discount on the purchase price or earnest money deposit for any costs associated with obtaining the Irrevocable Letter of Credit.

It is the responsibility of the bidder to ensure that adequate time is available to complete the registration process as described above. The Government makes no representation or guarantee that any additional assistance or time will be provided to complete the registration process. No bidder will be allowed to participate in the sale until the entire registration process is complete.

#### **6. ADDITIONAL INFORMATION**

The General Services Administration issuing office, at the address given in this Invitation for Bids, will, upon request provide additional copies of this Invitation for Bids, Bid and Acceptance, and answer requests for additional available information concerning the property offered to facilitate preparation of bids. Each bid submitted shall be deemed to have been made with full knowledge of all terms, conditions, and requirements contained in this Invitation for Bids.

#### **7. BIDS TO BE OPENED AT SPECIFIED TIME**

It shall be the duty of each bidder to see that his bid is delivered within the time and at the place prescribed in this Invitation for Bids. Bids (including modifications) received prior to the time fixed in this Invitation for Bids for the opening of bids will be securely kept unopened. No bid, modification, or withdrawal, received after the time fixed in this Invitation for Bids for the opening of bids will be considered except as provided under 3, above. At the time fixed for the opening of bids, their contents will be made public by announcement for the information of bidders and others properly interested who may be present either in person or by representative.

#### **8. WAIVER OF INFORMALITIES OR IRREGULARITIES**

The Government may, at its election, waive any minor informality or irregularity in bids received.

#### **9. ACCEPTABLE BID**

A bid received from a responsible bidder whose bid, conforming to this Invitation for Bids, will be most advantageous to the Government.

#### **10. NOTICE OF ACCEPTANCE OR REJECTION**

Notice by the Government of acceptance or rejection of the bid shall be deemed to have been sufficiently given when faxed or mailed to the Bidder or their duly authorized representative at the fax/phone number or address indicated in the bid. The processing of a registration deposit by the Government shall not, in itself, constitute acceptance of the Bidder's offer. The Government reserves the right to reject any or all bids or portions thereof for any reason.

#### **11. CONTINUING OFFER**

Each bid received shall be deemed to be a continuing offer for 240 calendar days after the close of the online auction until the bid is accepted or rejected by the Government.

If the Government desires to accept any bid after the expiration of the 240 calendar days, the consent of the bidder shall be obtained prior to such acceptance.

12. **BACKUP BIDDER**

- a) **The second-highest Bidder will be the Backup Bidder.** The Backup Bidder may be considered for award as successful Bidder for the duration of Continuing Offer period described in paragraph 11, if: 1) the original High Bidder is unable to fully complete the transaction according to the terms and conditions of the IFB; or 2) if the original High Bidder fails to meet the conditions of . The Backup Bidder's Registration Deposit may be retained, without interest, until the High Bidder completes the transaction, or thirty (30) days. When the Backup Bidder is converted to the High Bidder, all terms, conditions and agreements described in the IFB are applicable to the successful bidder.
- b) The Registration Deposit of the Backup Bidder will be returned as described above if the Backup Bidder is not converted to the High Bidder. In the event that the Government is unable to complete the transaction with the highest or backup bidder, the Government reserves the right to consider the remaining bid(s) and make an award that is in the best interest of the Government.



## **VI. ENVIRONMENTAL CONDITION OF THE PROPERTY AND REGULATORY STATUS ADVISEMENT**

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### **1. ENVIRONMENTAL CONDITION OF PROPERTY REPORT**

The Government has recently completed an assessment of overall environmental conditions at the Property and has compiled that information into an Environmental Condition of Property (ECP) Report which can be viewed under the Environmental Materials Section of the GSA Property Disposal Webpage. Bidders should review this report as well as those other environmental reports and other documents specifically referenced therein and in Section VII of this IFB, as part of their environmental due diligence efforts.

### **2. REGULATORY STATUS OF THE PROPERTY**

The following information summarizes the current and anticipated future regulatory status of the Property in the context of the Government's continuing environmental investigation and cleanup efforts. This is only a summary and is not intended to substitute for bidder review of those specific environmental reports and other documents which are or will be available for review on the GSA Property Disposal Webpage:

- a) The Industrial Facility Parcel is currently subject to a Hazardous Waste Treatment, Storage or Disposal Facility permit (RCRA permit) issued by the State of Texas (TCEQ) to the Government in 1994 and renewed as recently as 2005. Cleanup of the Property and off-site affected areas has been proceeding in accordance with the requirements of that permit and applicable state law and regulations;
- b) As further detailed in Section VII of this IFB, there remain certain environmental investigation and cleanup activities (hereafter "Response Actions") which the Government is obligated to complete as currently designated "owner" and "operator" of this RCRA permitted facility;
- c) Because the Government has yet to complete all those Response Actions necessary to address known historical releases of certain hazardous substances (including RCRA hazardous wastes) both on, and from, the Property [including those into Cottonwood Bay and two discrete portions of Mountain Creek Lake], the Government had to obtain the approval from the Governor of the State of Texas for this sale of the Property as provided for under Section 120(h)(3)(C) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9620(h)(3)(c) (CERCLA). That "early transfer" approval was obtained from Governor Rick Perry on March 25, 2010 after the U.S. Department of the Navy had prepared and submitted for his review, a Finding of Suitability for Early Transfer (FOSET) package;
- d) The Government has applied to the TCEQ for issuance of a Corrective Action Order (CAO) for the Property in lieu of maintaining the current RCRA permit. The Government currently anticipates that a draft of that Order will be available for public review and comment sometime in March 2011. Based upon the Government's prior submission of certain Remedial Action Plans (RAPs) for affected soils, sediments and groundwater both on and off-site which TCEQ has reviewed, the Government also anticipates that once issued, the requested CAO will stipulate that the Government complete those remaining Response Actions delineated below in Section VII of this IFB in order to fulfill its remaining environmental investigation and cleanup related RCRA permit obligations for the Property and to ensure compliance with all applicable State of Texas hazardous waste laws and regulations.



## VII. SPECIFIC ENVIRONMENTAL RESTRICTIONS, TERMS, CONDITIONS, AGREEMENTS, COVENANTS, AND NOTICES

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Sale of the Property is made subject to the following special terms, conditions, covenants, use restrictions and notices as shall be expressly contained in, incorporated by reference thereto, or otherwise made a part of the final instrument of conveyance.

### 1. PURCHASER ASSUMPTION OF CERTAIN ENVIRONMENTAL MATTERS

Upon conveyance of the Property, Purchaser must accept responsibility, at its sole cost and expense, for the below identified environmental matters affecting the Property. Those matters must be managed in accordance with all applicable federal, state and local environmental laws and regulations (hereafter "Environmental Requirements"):

- a) Regulatory Compliance: Day-to-day compliance with those Environmental Requirements as shall be applicable to those commercial and/or industrial land uses, operations and activities which shall take place on the Property after the date of conveyance, including, but not limited to, those operations and activities continuing from prior Government ownership.
- b) Response Actions for Known Contamination: Completion to the satisfaction of the Government and TCEQ, of those remaining Response Actions for known CERCLA hazardous substance releases on, or from, the Property which the Government is obligated to address under its current RCRA permit (or anticipated CAO) and Section 120(h) of CERCLA (even if an increase in the volume, disbursement, location and/or concentration of such substances from that identified in the Government's existing environmental documentation is later discovered by Purchaser at a particular site). As detailed in those environmental reports and other documents which are currently available on the GSA Property Disposal Webpage, the assumed Response Actions shall be limited to the following:
  - i. Implementing the Groundwater Remedial Action Plan (RAP) previously submitted by the Government to TCEQ to address shallow groundwater contamination both on-site and off-site;
  - ii. Implementing the Sediments RAP submitted by the Government to TCEQ to address contaminated sediments in Cottonwood Bay and two discrete areas of Mountain Creek Lake;
  - iii. The completion of all related long term obligations, including but not limited to monitoring, management and enforcement of land use restrictions/controls, and operation and maintenance of all remedial actions, as required to support a determination that the Government's obligations under all applicable Environmental Requirements have been or are being satisfied.
- c) Response Actions for Certain Newly Discovered Contamination: Based upon prior findings, the Government anticipates that there may be additional isolated areas of hazardous substance contamination in soils beneath the foundations for Buildings 1 and 6 on the Property. Should they exist, those areas do not currently present a risk to human health or the environment because the foundations serve as barriers to exposure. To facilitate redevelopment, the Government has elected not to impose deed restrictions which would preclude disturbance of those foundations. However, should Purchaser elect to allow a tenant or other party to breach the foundations in Buildings 1 and 6 in areas where such isolated contamination may be found to exist, then Purchaser must assume any and all costs associated with satisfying resulting Environmental Requirements for the proper sampling, handling and as needed, off-site disposal of such contaminated soils and for obtaining TCEQ concurrence that all necessary Response Actions have been taken.



## 2. PURCHASER EXECUTION OF CAO

In order to assure compliance with the above stated IFB terms and conditions, Purchaser must enter into a Corrective Action Order (CAO) with the TCEQ within 180 days of bid award. That Order would replace the CAO which the Government currently anticipates receiving from the TCEQ for the Property as discussed in Section VI of this IFB. The Purchaser should expect that TCEQ will require certain additional terms and conditions which likely will not be contained in the Government's CAO such as specific requirements for Financial Assurances as required under the provisions of 30 Texas Administrative Code, Part I, Chapter 37, Subchapter C, and for reimbursement for TCEQ oversight costs. **Interested Bidders should contact TCEQ with respect to the nature of those additional requirements.** The transferred CAO must be in a form acceptable to the Government as well as the TCEQ. **Unless otherwise agreed to in writing by the Government, if Purchaser is unwilling or unable to enter into a CAO with the TCEQ within 180 days of award, any registration deposit(s) paid may be forfeited at Government's discretion.**

## 3. DEMONSTRATION OF TECHNICAL AND FINANCIAL CAPABILITY

As a condition precedent for transfer of title, Purchasers must demonstrate that they will be able to qualify as a "Suitably Capable Transferee" as described in Section 9.0 of the Government's FOSET with both the technical capability (either in-house or to be acquired under contract) and financial capability to complete all Response Actions obligations to be assumed under Section VII.1 of this IFB. The Purchaser shall be responsible for making its own estimates as to future environmental responsibilities and liabilities and no such matters shall be grounds for revocation of a bid after it has been accepted by the Government nor any claim for reimbursement or compensation of any kind. The Government is making available those environmental reports, documents and data it has procured for the Property; these are provided for informational purposes only and the Government makes no warranties with regard to any such information. Bidders shall be deemed to have relied on their own judgment in assessing the environmental condition of the property as well as any associated responsibilities or liabilities. **Copies of Purchaser's proposed Financial Assurances must be provided to the Government and the TCEQ within 90 days of award.** It is anticipated that the only forms of Financial Assurance which will be acceptable to both the Government and TCEQ for purposes of obtaining the CAO required under Section VII.2 above, will be one or more of the following:

- Surety Bond Guaranteeing Payment (TAC Rule 37.211)
- Fully Funded Trust (TAC, Rule 37.201)
- Irrevocable Standby Letter of Credit (TAC, Rule 37.231)

## 4. GOVERNMENT RETENTION OF CERTAIN RESPONSE ACTION OBLIGATIONS

Bidders are advised that the Government intends to retain the obligation to complete those Response Actions if any, needed to protect human health or the environment from those currently unknown, but later discovered, hazardous substance releases on, or from, the Property as may be attributable to the Government and which will not otherwise be assumed by Purchaser pursuant to Section VII.1 of this IFB, to the extent such actions are required by CERCLA and the National Contingency Plan (NCP). This CERCLA deed covenant related obligation of the Government shall not be diminished by possible later designation of the site(s) of any such release(s) as a new SWMU or AOC under the substituted CAO which Purchaser shall enter into with the TCEQ.

## 5. REQUIRED CERCLA DEED COVENANTS AND ASSURANCES

As required by CERCLA Sections 120(h)(3)(A) and (C), the United States shall include the following or substantially similar language in the deferred covenant quitclaim deed:

- A. Hazardous Substance Activity Notice: Pursuant to Section 120(h)(3)(A)(i)(I) of the CERCLA, as amended (42 U.S.C. §9620(h)(3)(A)(i)), and implementing federal regulations found at 40 CFR Part 373, and based upon a complete search of those agency files possessed by the U.S. Department of the Navy (Navy), the Government hereby gives notice via **Exhibit "A"** as to: (1) the type and quantity of those CERCLA hazardous substances that were known to have been released or disposed of or stored for one year or more on the Property, (2) the time such storage,



release or disposal took place, and (3) those remedial actions taken to address such releases or disposals.

- B. CERCLA Section 120(h)(3)(C)(i)(I) Notice. The Property is suitable for transfer for the use intended by the Purchaser, and the intended use is consistent with protection of human health and the environment.
- C. Additional Remedial Actions: Subject to those Response Action obligations being assumed by Purchaser pursuant to Sections VII.1.B and C above, as shall also be binding upon all future successors and assigns to the Property, the Government will provide the following deed covenant upon conveyance of the Property:
- i. In accordance with CERCLA Section 120(h)(3)(A)(ii)(II), that any additional remedial actions found to be necessary after the date of transfer shall be conducted by the United States.
- D. Deferred CERCLA Covenant: When Purchaser completes those remaining Response Actions for known hazardous substances on, or from, the Property as required under Section VII.1.B above, the Government shall provide in recordable form, the warranty required under CERCLA Section 120(h)(3)(C)(iii) that all such Response Actions have been taken by the United States.
- E. Covenant Exceptions: The above specified CERCLA Section 120(h)(3)(A)(ii) and deferred CERCLA Section 120(h)(3)(C)(iii) covenants shall not be provided by the Government nor otherwise apply to the extent that:
- i. Purchaser is responsible for the Response Actions called for under the CAO as provided for under Sections VII.1 and VII.2, above.
  - ii. Purchaser, its successor(s) or assign(s), or any successor in interest to the Property or part thereof is a Potentially Responsible Party (PRP) with respect to the Property immediately prior to the date of this conveyance. Government and Purchaser acknowledge and agree for purposes of this Deed, that as of the date of this conveyance, the Purchaser is not a PRP or liable person as contemplated under the federal CERCLA statute, as amended by the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (P.L. 107-118, Section 221); provided, however, that this specific exception does not apply in the event that the Purchaser is Triumph Aerostructures – Vought Aircraft Division, its successors and assigns;
  - iii. Such additional response action(s) or part thereof found to be necessary is the result of an act or failure to act of the Purchaser, its successor(s) or assign(s), or any party in possession after the date of this conveyance that either:
    - (a) results in a release or threatened release of a hazardous substance that was not located in, under, or on the Property on the date of this conveyance, or
    - (b) causes or exacerbates the release or threatened release of a hazardous substance the existence and location of which was known and identified in the Navy's Environmental Condition of Property (ECP) Report as previously provided by the Navy to Purchaser found at the Environmental Materials Section of the GSA Property Disposal Webpage located at <https://propertydisposal.gsa.gov>, or
    - (c) in the case of a hazardous substance(s) previously unknown by Government and Purchaser as of the date of this conveyance and not otherwise covered under Section VII.1(c). above is hereafter discovered by Purchaser, its successor(s) or assign(s), or any party in possession and where after discovery and knowledge of the existence of such hazardous substance(s), Purchaser, its successor(s) or assign(s), or any party in possession causes or exacerbates the release or threatened release of such hazardous substance(s).
  - iv. In the event Purchaser, its successor(s) or assign(s), seeks to have Government conduct any additional Response Action(s), and, as a condition precedent to Government incurring any such additional cleanup obligation or related expenses, the Purchaser, its successor(s) or assign(s),



shall provide Government at least 45 days written notice of such a claim. In order for the 45-day period to commence, such notice must include credible evidence that:

- (a) the contamination in question existed prior to the date of this conveyance; and,
- (b) the need to conduct any additional response action or part thereof was not the result of any act or failure to act by the Purchaser, its successor(s) or assign(s), or any party in possession as described in Section VII.5.E(i-iii) above.

F. Access Reservation: Consistent with Section 120(h)(3)(A)(iii) of CERCLA (40 U.S.C. §9620(h)(3)(A)(iii)), the Government reserves a right of access to all portions of the Property for environmental investigation, remediation or other corrective action(s). This reservation includes the right of access to and use of available utilities at reasonable cost to Government, the U.S. Environmental Protection Agency (U.S. EPA) and the TCEQ. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of this conveyance, or in which access is necessary to carry out a remedial action, response action, or corrective action on adjoining Property. Pursuant to this reservation, the Government, U.S. EPA and TCEQ, and their respective officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable advance notice to the record title owner) to enter upon the Property and conduct investigations and surveys, to include drilling, test-pitting, borings, data and records compilation and other activities related to environmental investigation, and to carry out removal, remedial or corrective actions as required by law, including, but not limited to, the installation, operation and maintenance of monitoring wells, treatment facilities and U.S. EPA or TCEQ approved final site remedies. Purchaser acknowledges that these and other investigative and remedial activities shall take priority in the event that a conflict may arise between the Government's activities and Purchaser's or any successor, assign, lessee or licensee's desired use(s) of the Property. Government agrees that all such entries and on-site investigative or remedial or corrective action related activities shall be coordinated with record title owner and shall be performed in a manner that minimizes interruption with activities of authorized occupants. To facilitate future coordination, the following points of contact have been designated by Government, Purchaser and the TCEQ:

Government:  
Commanding Officer  
Naval Facilities Engineering Command Southeast  
ATTN: ESBL Coordinator  
P.O. Box 30, Bldg 903  
NAS Jacksonville, FL 32212-0030

Purchaser: TBD

TCEQ: Federal Facilities Coordinator  
Remediation Division (MC 127)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- G. Non-Interference Clause: Purchaser covenants and agrees for itself, its successors and assigns and every successor in interest to the Property, or part thereof, that a party occupying the Property shall not hinder or prevent the United States of America, and its agencies, officers, employees, agents, and contractors, from properly constructing, upgrading, operating, maintaining, and monitoring any groundwater treatment facilities or processes, or engage in any activity that will disrupt or hinder required investigations, response actions, or oversight activities on the Property or adjoining property.
- H. Response Action Assurances: In accordance with Section 120(h)(3)(C)(ii) of CERCLA, the Government hereby provides assurance as to the following:
1. That all necessary restrictions on the use of the Property to ensure future protection of human health and the environment are included in this deed;

2. That all necessary restrictions to ensure that both required future Response Actions and regulatory oversight activities will not be disrupted by any new owner(s) or user(s) of the Property are included in this deed;
3. That the Government will either complete or, ensure as shall be consistent with the terms for bid award that the Purchaser will complete, all necessary response actions for the Property. To the extent the Government shall be required under the terms for sale and/or its CERCLA covenant obligations to undertake such actions, then the Government shall either follow, or obtain TCEQ concurrence to modify, the work schedule presently included in the Navy's approved FOSET, which is hereby incorporated by reference.
4. As needed consistent with the terms for this sale and the Government's CERCLA covenant obligations, the Government will submit annually through established channels, appropriate budget requests to the Director of the Office of Management and Budget that adequately address the current work completion schedule agreed upon with TCEQ, but not already funded, for the completion of any necessary future Response Actions subject to obtained Congressional authorizations and appropriations should the Government rather than, or in lieu of, the Purchaser have to complete such actions.



## **VIII. SPECIFIC ENVIRONMENTAL LAND RESTRICTIONS AND ASSOCIATED PURCHASER COVENANTS**

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Purchaser covenants and agrees for itself, its successors and assigns, and every successor in interest to the Property hereby conveyed, or any part thereof, that the Property is hereby conveyed subject to the following land and groundwater use restrictions which are covenants running with the land. Purchaser further covenants and agrees for itself, its successors and assigns, and every successor in interest to the Property hereby conveyed, or any part thereof, that in the event that any of the Property is hereafter sold, conveyed, transferred, leased, or otherwise disposed of, the following covenants and restrictions, (the "Covenants and Restrictions") shall be inserted in any deed, lease, license or other title or lesser property interest conveyance instrument(s). Purchaser hereby acknowledges that these use restrictions are intended by Government to ensure protection of human health and the environment and to ensure that any required future Government response actions and regulatory oversight activities will not be disrupted.

### **1. RESIDENTIAL LAND USE PROHIBITION**

- a) Purchaser, its successors and assigns, lessees and licensees shall only use the Property for commercial or industrial purposes as contemplated under Title 30, Texas Administrative Code (TAC), Section (§)350.4(a)(13). Use of the Property for "residential land use" as defined under 30 TAC §350.4(a)(74) is expressly prohibited without prior written authorization from both Government and TCEQ. "Residential land use" includes, but is not limited to, using the Property for dwellings such as single family houses and multi-family apartments, children's homes, nursing homes, day-care facilities, educational facilities, hospitals, playgrounds or parks.
- b) Should Purchaser or its successors, assigns, lessees or licensees desire to use any portion of the Property for residential land use, the Government and TCEQ must be notified as least 60 days in advance. Any additional site evaluations, risk assessments, and/or response actions as may be required in order for Purchaser or any of its successors, assigns, lessees or licensees to be able to use the Property for other than commercial or industrial purposes shall be at Purchaser's or the requesting party's sole expense should such alternative use(s) be approved by Government and TCEQ.
- c) Purchaser acknowledges having received from Government a copy of the Deed Notice previously filed by Government in accordance with 30 TAC §350.31(g) with respect to the surface soil contamination on the Property warranting the need for the residential land use prohibition contained herein.

### **2. GROUNDWATER EXTRACTION OR USE PROHIBITION**

- a) Purchaser its successors, assigns, lessees and licensees are prohibited from installing any water supply well(s) into, or extracting or using shallow groundwater (groundwater lying above the Eagle Ford Shale) beneath the Property for any purpose without prior written authorization from Government and TCEQ. Should Purchaser, its successors, assigns, lessees or licensees, desire to install a well for the extraction of deeper groundwater beneath the Property, then that party(ies) must assume all costs associated with that effort including taking all measures and precautions (e.g., use of isolation casing) necessary to comply with all applicable federal, state and local regulatory requirements and to preclude possible contaminant migration or any unacceptable human health and/or ecological risks or impacts.
- b). Purchaser acknowledges having received from Government a copy of the Deed Notice previously filed by Government for the Property in order to obtain TCEQ approval for establishment of a Plume Management Zone (PMZ) beneath the Property pursuant to 30 TAC §350.33(f)(4). Purchaser agrees on behalf of itself, its successors, assigns lessees, licensees or other users of the Property not to take any action which would otherwise in any way cause a violation of that Notice or of other applicable PMZ related regulatory requirements.



**3. NON-INTERFERENCE WITH REMEDIAL SYSTEMS**

Except as may be authorized in advance by the Government and TCEQ so that Purchaser may fulfill its assumed Response Action obligations under Sections VII.1 and 2 of the IFB, Purchaser its successors, assigns, lessees and licensees, are prohibited from impacting those current and any future site remedies and associated remedial systems situated [or to be situated] on the Property as have been or may later be installed by the Government, including, but not limited to, the two Permeable Reactive Barriers (PRBs) which have been installed below ground in the Southwest Parking Area and Armstrong Area site remedies are depicted in the Environmental Materials Section of the GSA Property Disposal Webpage located at <https://propertydisposal.gsa.gov>. Unless otherwise so authorized, specifically prohibited activities include, but are not limited to, any excavating or trenching into or covering over of the PRBs and any dredging of, or excavating or trenching into or around, Cottonwood Bay or the installation of new storm water outfalls into Cottonwood Bay.

**4. NON-INTERFERENCE WITH MONITORING WELLS**

Purchaser its successors, assigns, lessees and licensees are prohibited from tampering with or otherwise negatively impacting the effectiveness and/or physical integrity of, all existing and any future groundwater monitoring wells installed [or to be installed] by Government on the Property. The general locations of all existing wells are reflected in the Environmental Materials Section of the GSA Property Disposal Webpage located at <https://propertydisposal.gsa.gov>. Except as may be an assumed obligation of Purchaser under Sections VII.1 and 2 of the IFB, the Government shall be responsible for the proper closure of all such wells in accordance with applicable regulatory requirements when they are no longer needed for any necessary response actions on the Property, as determined by Government after consultation with the TCEQ.

**5. NON-INTERFERENCE WITH REMEDIAL ACTIVITIES**

Purchaser covenants for itself and its successors, assigns, lessees and licensees, that it shall not unreasonably interfere with those rights of access reserved to Government, U.S. EPA or the TCEQ, or interfere with those continuing and/or future response actions to be undertaken by Government, its employees, agents or contractors on, or adjacent to, the Property as needed to ensure Government's compliance with CERCLA and State of Texas TRRP and related orders, permits, procedures, standards and requirements.

**6. HEALTH AND SAFETY PLAN(S)**

Purchaser covenants that it shall comply and require its lessees, licensees or other users of the Property to comply with the provisions of any Health and Safety Plan(s) provided to Purchaser in advance and put into effect by the Government in accordance with applicable legal requirements in connection with ongoing or future environmental investigative and/or remedial activities to be undertaken by Government on the Property. Purchaser and its lessees and licensees shall have no claim against Government or TCEQ, or their officers, employees, agents, and contractors on account of any business disruption or economic loss resulting from such compliance.



## **IX. GENERAL ENVIRONMENTAL NOTICES AND COVENANTS**

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### **1. NOTICE OF VAPOR INTRUSION POTENTIAL**

Purchaser is advised that volatile organic compounds (VOC's) in soils and groundwater have the potential to serve as sources for air emissions which can accumulate within overlying structures. Such accumulations are characterized as "vapor intrusion" by various Federal and State environmental regulatory agencies and environmental consensus standard organizations. In particular:

- a) The U.S. Environmental Protection Agency, Office of Solid waste and Emergency Response, has published draft guidance entitled, "OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils;"
- b) The Interstate Technology and Regulatory Council has a vapor intrusion team in place which has, in turn, developed guidance for its member States on how to address the risks posed by vapor intrusion, including:
  - VI-1 – Vapor Intrusion Pathway: A Practical Guideline, and
  - VI-1A – Vapor Intrusion Pathway: Investigative Approaches for Typical Scenarios
- c) The American Society for Testing and Materials (ASTM) has established a task group entitled ASTM E 50.02.06 to develop a standard to assess vapor intrusion as it relates to Property transactions.
- d) Given the current state of the VOC contamination known to exist in subsurface soils and groundwater on the Property as well as the current use and construction of the various improvements existing thereon, it is not believed that those contaminants currently pose any unacceptable health risk(s) to current building users or occupants. Nonetheless, the Purchaser is placed on notice that based on current scientific understanding of the risks associated with volatile chemical vapor intrusion, it is possible that future development on the Property that involves the alteration of current structures or creation of new structures, may provide a preferential pathway for such volatile chemical vapor intrusions, and thus may require consideration of construction methods to limit or prevent such intrusions.

### **2. NOTICE OF LEAD-BASED PAINT FOR NON-RESIDENTIAL REAL PROPERTY CONSTRUCTED PRIOR TO 1978**

Purchaser, for itself and its successors and assigns, acknowledges and agrees that every future purchaser of any interest in real property on which a building was built prior to 1978 will be notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. Purchaser, for itself and its successors and assigns, further acknowledges and agrees that any future seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to converting the property to a residential dwelling.

### **3. NOTICE OF THE PRESENCE OF ASBESTOS— WARNING!**

The Purchaser is warned that the property contains asbestos-containing materials. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne



asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

Purchaser is invited, urged and cautioned to inspect the property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto. The disposal agency will assist Purchaser in obtaining any authorization(s) which may be required in order to carry out any such inspection(s). Purchaser shall be deemed to have relied solely on their own judgment in assessing the overall condition of all or any portion of the property including, without limitation, any asbestos hazards or concerns.

No warranties either express or implied are given with regard to the condition of the property including, without limitation, whether the property does or does not contain asbestos or is or is not safe for a particular purpose.

The description of the property set forth in the Conveyance Document and any other information provided therein with respect to said property is based on the best information available to the disposal agency and is believed to be correct, but any error or omission, including but not limited to the omission of any information available to the agency having custody over the property and/or any other Federal agency, shall not constitute grounds for any claim by the Purchaser against the Government.

The Government assumes no liability for damages for personal injury, illness, disability or death, to the Purchaser, or to the Purchaser's successors, assigns, employees, invitees, or any other person subject to Purchaser's control or direction, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the property which is the subject of this conveyance, whether the Purchaser, its successors or assigns has or have properly warned or failed properly to warn the individual(s) injured.

The Purchaser further agrees that in its use and occupancy of the property it will comply with all Federal, state, and local laws relating to asbestos.

#### **4. NOTICE OF PESTICIDES APPLICATION**

The Purchaser is notified that the Property may contain the presence of pesticides that have been applied in the management of the property. The United States knows of no use of any registered pesticide in a manner inconsistent with its labeling, and believes that all applications were made in accordance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA -- 7 U.S.C. Sec. 136, et seq.), its implementing regulations, and according to the labeling provided with such substances. Furthermore, that in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA -- 42 U.S.C. Sec. 9601, et seq.), the use of such substances is not a "release" (as defined in CERCLA, 42 U.S.C. Sec. 9601 (22)), but instead the use of a consumer product in consumer use (42 U.S.C. Sec. 9601(9)), and the application of a pesticide product registered under FIFRA for which recovery for response costs is not allowed (42 U.S.C. Sec. 9607(i)).

#### **5. NOTICE OF PCB CONTAMINATION**

- a) Purchaser is hereby informed and does acknowledge that the Property may contain Polychlorinated Biphenyls (PCBs). To the best of the Government's knowledge, except as hereinafter provided in this subsection, the PCBs on the Property do not currently pose a threat to human health or the environment.
- b) Polychlorinated Biphenyls (PCBs) are a hazardous material. Unprotected or unregulated exposures to PCBs have been associated with certain diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate PCBs because of the potential hazards associated with exposure. Both OSHA and EPA have determined that such exposure increases the risk of certain diseases, which include certain cancers and which can result in disability or death.



- c) Purchaser, for itself and its heirs, successors and assigns, shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including any PCB hazards or concerns. No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property is or is not safe for a particular purpose.
- d) Government assumes no liability for damages for personal injury, illness, disability, death, property damage, or loss of business, use, or profits, to the Purchaser, or to its heirs, successors, assigns, employees, invitees, or any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with PCBs on, at or from the Property which is the subject of this quitclaim, whether or not Purchaser, its heirs, successors or assigns have properly warned or failed to properly warn. Purchaser further agrees that in its use and occupancy of the Property or any portion thereof, it will comply with all Federal, State and local laws relating to PCBs, and will comply with the use restrictions specified herein.
- e) Purchaser, its heirs, successors or assigns, shall, after consideration of the provisions of the Toxic Substances Control Act, 15 U.S.C. 2601, comply with the relevant PCB regulations published at 40 C.F.R. 761, et seq., as well as proposed regulations found at 59 F.R. 62788 (Dec 6, 1994), 64 F.R. 33755 (June 24, 1999), 64 F.R. 69358 (Dec 10, 1999), 65 F.R. 18018 (April 6, 2000) and 65 F.R. 81373 (Dec 26, 2000), to the extent they are applicable.

#### **6. NOTICE OF POSSIBLE PRESENCE OF MOLD**

- a) The Purchaser is notified that various forms of mold may be present at various locations in the subject building(s) on the Property. Molds and mold growth may create toxins that can cause adverse health reactions to some humans after exposure, and which falls within the CERCLA "Limitations on Response" standards found at 42 U.S.C. 9604 (a)(3). The Federal Government has not set Standards or Threshold Limit Values for airborne concentrations of mold or mold spores.
- b) Information provided to Purchaser with respect to the Property is based on the best information available to the U.S. General Services Administration and is believed to be correct, but any error or omission, including, but not limited to the omissions of any information available to the agency having custody over the Property and/or any Federal agency, will not constitute grounds for liability for damages against Government for personal injury, illness, disability, or death, to the Purchaser, its successors, assigns, employees, invitees, or any other person subject to the Purchaser's control or direction.

#### **7. SUBSURFACE SOILS ADVISORY (FORMER TOTAL SOIL COMBINED PCLE ZONES)**

As delineated in the Government's Remedial Action Completion Report (RACR) for Soils at NWIRP Dallas available through the Environmental Materials Section of the GSA Property Disposal Webpage located at <https://propertydisposal.gsa.gov>, certain portions of the Property have chemicals of concern in subsurface soils (those soils lying five (5) feet or greater below ground surface (bgs) ) whose levels have been found to exceed TRRP commercial / industrial direct exposure standards. In those areas of the Property, Purchaser, its successors, assigns, lessees and licensees should take appropriate measures to ensure on-site worker safety, air and water pollution prevention and the proper handling, storage and disposal of any contaminated soils excavated into or brought to the surface from, depths greater than five (5) feet below ground surface. Should Purchaser or any of its successors, assigns, lessees licensees or other users of the Property elect to re-grade the land areas depicted so as to reduce the depth of this existing subsurface contamination to less than five (5) feet bgs., then that party could be required by TCEQ to undertake certain additional corrective actions at its own cost and expense.

#### **8. WETLANDS**

Because the property may contain identified wetlands areas or sites, any use of the conveyed property will be subject to compliance with Federal, State, and local regulations governing

wetlands including but not limited to Executive Order 11990, Protection of Wetlands, and Section 404 of the Clean Water Act, 33 U.S.C. 1344, as may be appropriate. Section 404 regulates the placement of dredged or fill material into waters of the United States, including wetlands, unless the work has been authorized by the Army Corps of Engineers.

**9. FLOODPLAINS AFFECTING THE PROPERTY**

Portions of the Property are located in a 100 Year floodplain. Purchaser, for itself and its successors and assigns, agrees and covenants that any development of the above described Property will be subject to floodplain regulations and other applicable Federal, state and local statutes, and ordinances relating to flood hazard.

**10. ENVIRONMENTAL INDEMNITY**

To the extent permitted by applicable law, Purchaser for itself and its successors and assigns, hereby covenants and agrees to indemnify, protect, defend, save and hold harmless the United States of America, and its employees, officers, representatives, attorneys and agents, from and against any and all debts, duties, obligations, liabilities, suits, claims, demands, causes of action, damages, losses, costs and/or expenses (including without limitation, attorneys' fees and expenses and court costs) in any way relating to, connected with, and/or arising out of the discovery of any hazardous substance(s) and/or petroleum product(s) or their derivatives released on or from the Property after the date of Property conveyance, including but not limited to, any necessary investigative or remedial actions for which: (1) Purchaser, or its successors or assigns of any portion of the Property is a Potentially Responsible Party (PRP) with respect to the source(s) of that contamination; or (2) any investigative or remedial action(s) required if any act or failure to act by the Purchaser or such successors or assigns or any other party in possession that causes, contributes to, or exacerbates after the date of this Quitclaim Deed, any pre-conveyance release(s) of such substances and/or products on or from the Property if made known to Purchaser by Government prior to any such act or failure to act by Purchaser or its successors or assigns or such other parties.



## X. HISTORIC PROPERTY PRESERVATION NOTICE OF TERMS, CONDITIONS, AGREEMENTS, AND HISTORIC PRESERVATION COVENANTS

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This sale is expressly made subject to the following Historic Properties Preservation notices, exceptions, restrictions, and covenants affecting the Property, which shall be included in the final instrument of conveyance substantially as set forth below:

1. Purchaser hereby acknowledges having received from Government a copy of the Integrated Cultural Resources Management Plan (ICRMP) prepared by the Navy for NWIRP Dallas (July 2009). In addition, Purchaser hereby acknowledges the "MEMORANDUM OF AGREEMENT AMONG THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE U.S. GENERAL SERVICES ADMINISTRATION, U.S. NAVY, AND THE TEXAS STATE HISTORIC PRESERVATION OFFICER REGARDING THE NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, DALLAS, TEXAS, dated 12-06-2010 (hereinafter referred to as the "MOA") is a true and correct copy of which is attached hereto as **Exhibit B** and made a part hereof, setting forth certain terms and conditions for the preservation of Buildings of Buildings 1, 6, 7, 16, 49, 94, and 97 located on the Property ("Historic Properties") as identified in the ICRMP which qualify for listing on the National Register of Historic Places.
2. Purchaser for itself and its successors and assigns covenants and agrees to be bound by and fully comply with all the terms, conditions, notices, restrictions, covenants and agreements contained in the above identified MOA in order to preserve and maintain those Historic Properties in accordance with the latest edition of *The Secretary of Interior's Standards for Treatment of Historic Properties*.
3. Purchaser for itself and its successors and assigns also covenants and agrees that Government and the Texas SHPO shall be permitted at all reasonable times to inspect these Historic Properties in order to ascertain if the terms of the above identified MOA and standards set forth in the latest edition of *The Secretary of Interior's Standards for Treatment of Historic Properties* are being observed. Purchaser further agrees that Government, or the Texas SHPO may at their discretion, without prior notice to the Purchaser, convey and assign all or part of their rights and responsibilities contained in this covenant to a third party.
4. Purchaser for itself and for its successors, assigns, future tenants and users of the Property covenants and agrees, that the covenants stated in Article 5(B) through and 5(D), above shall run with the land and be binding upon all successors, assigns, and users of the Property and that in the event the Property is later sold, leased, or otherwise disposed of, in whole or in part, that it shall insert these covenants verbatim or by express reference thereto in any subsequent deed or other legal instrument by which Purchaser may divest itself of either the fee simple title or any other lesser estate in these Historic Properties or any part thereof.

## **XI. OTHER AGREEMENT, NOTICES AND COVENANTS**

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This sale is expressly made subject to the following environmental notices, exceptions, restrictions, and covenants affecting the Property, which shall be included in the final instrument of conveyance substantially as set forth below:

### **1. PROPERTY CONDITION**

As a material part of the Consideration for this deed, Government and Purchaser agree that Purchaser is taking the Property "AS IS" with any and all latent and patent defects and that there is no warranty by Government that the Property has a particular financial value or is fit for a particular purpose. Purchaser acknowledges and stipulates that Purchaser is not relying upon any representation, statement, or other assertion with respect to the Property's condition but is relying upon Purchaser's examination of the Property. Purchaser takes the Property with the express understanding and stipulation that there are no express or implied warranties.

### **2. NO WAIVER**

Failure of Government to insist in any one or more instances upon complete performance of any of the use restrictions, covenants, reservations or other terms and conditions contained in this Quitclaim Deed shall not be construed as a waiver or relinquishment of the future performance of such requirements and the obligations of the Purchaser, its successors, assigns, lessees or licensees with respect to such future performance shall continue in full force and effect.

### **3. ADMINISTRATIVE REPORTING**

The interest quitclaimed hereby has been reported as excess real and related personal property to the Administrator of General Services and has been subsequently determined to be surplus for disposal pursuant to the Federal Property Act (40 U.S.C. § 541 et. seq.), as amended, and rules, orders, and regulations issued pursuant thereto.

Except as otherwise provided by 42 U.S.C. 9620(h)(3), Purchaser covenants for itself, its heirs, assigns and every successor in interest to the Property herein described or any part thereof that it shall abide by each of the following covenants, each of which will be covenants running with the land. In addition, the United States of America shall be deemed a beneficiary of each of the following covenants without regard to whether it remains the owner of any land or interest therein in the locality of the Property hereby conveyed and shall have a right to enforce each of the covenants herein in any court of competent jurisdiction; provided, however, the United States of America shall have no affirmative duty to any successor in title to this conveyance to enforce any of the following covenants herein agreed.

#### **1. FAA COVENANT**

Purchaser covenants for itself, its successors and assigns and every successor in interest to the Property herein described of any part thereof, that any construction or alteration is prohibited unless a determination of no hazard to air navigation is issued by the FAA in accordance with Title 14, Code of Federal Regulations, Part 66, entitled, "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

#### **2. SUBSEQUENT CONVEYANCE(S)**

Purchaser agrees that in the event Purchaser conveys the Property or any portion thereof, by Deed, that Purchaser shall include in that Deed all those notices, access rights, use restrictions and other covenants, duties, obligations and benefits contained in this Deed and shall provide at least thirty (30) days advance notice of any such planned conveyance(s) to both Government and the TCEQ.



## XII. BIDDER CHECKLIST

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Provided below is a checklist to assist bidders in the process. Bidders are encouraged to review the IFB in its entirety for additional details.

- ☐ Submit a bid to the Government on the **Bid Form** included in the rear of the IFB
- ☐ Submit bid to the Government in a **sealed envelope** according to IFB instructions (See Paragraph 2 – Section V, Instruction to Bidders)
- ☐ Successfully **close the transaction** prior to or at 180 days calendar days after the acceptance of bid (See Paragraph 15 – Section IV, General Terms)
  - ☐ Submit **Initial Deposit** reflecting 10% of Purchase Price in the form of a \$95,000.00 cashier's or certified check and the remainder in an irrevocable letter of credit (See Paragraph 15 – Section IV, General Terms and Paragraph 15 - Section V, Instructions To Bidders)
  - ☐ Submit **First Pre-closing installment** reflecting 30% of Purchase Price within 45 calendar days after acceptance of bid price (See Paragraph 15 – Section IV, General Terms)
  - ☐ Submit **Second Pre-closing installment** reflecting 60% of Purchase Price within 90 calendar days after acceptance of bid price (See Paragraph 15 – Section IV, General Terms)
  - ☐ Submit **copies of proposed Financial Assurances** to the Government within 90 days of award (See Paragraph 3 – Section VII, Specific Environmental Restrictions)
  - ☐ Enter into a **Corrective Action Order (CAO)** with the TCEQ within 180 days of bid award (See Paragraph 2 – Section VII, Specific Environmental Restrictions)
  - ☐ **Submit the approved Corrective Action Order** to the Government within 30 days of the closing date (See Paragraph 15 – Section IV, General Terms)
  - ☐ Submit the **Remaining Balance** of the purchase price to the Government via wire transfer (See Paragraph 15 – Section IV, General Terms)
- ☐ As a condition precedent for transfer of title , demonstrate that they will be able to qualify as a **"Suitably Capable Transferee"** as described in Section 9.0 of the Government's Finding of Suitability for Early Transfer (FOSET) with both the technical capability and financial capability to complete all Response Actions (See Paragraph 3, Section VII – Specific Environmental Restrictions)
- ☐ Submit a copy of the recorded deed to Government within 5 days after recording (See Paragraph 17 – Section IV, General Terms)

# BIDDER REGISTRATION FORM FOR THE PURCHASE OF GOVERNMENT PROPERTY

Mountain Creek Industrial Center  
9314 W. Jefferson Blvd.  
Grand Prairie, Texas 75211

BID AMOUNT: \$ \_\_\_\_\_

10% BID DEPOSIT: \$95,000.00 Cash plus an **IRREVOCABLE LETTER OF CREDIT**

**Bidder Information:** Please print or type legibly

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_

E-mail: \_\_\_\_\_

If this bid is accepted, the instrument of conveyance should name the following as Purchaser(s):

\_\_\_\_\_

Indicate above the

BIDDER REPRESENTS THAT HE/SHE OPERATES AS (check which applies) see Page , Paragraph ,  
Bid Executed on Behalf of Bidder for instructions:

- ☐ An Individual doing Business as \_\_\_\_\_ ☐ A  
partnership consisting of \_\_\_\_\_
- ☐ A limited liability partnership consisting of \_\_\_\_\_
- ☐ A corporation, incorporated in the State of \_\_\_\_\_
- ☐ A Limited liability company \_\_\_\_\_
- ☐ A trustee, acting for \_\_\_\_\_
- ☐ Other \_\_\_\_\_

**Registration Deposit** (check one)

- ☐ By certified or cashier's check made payable to the **U.S. General Services Administration**

## Certification and Authorization

The undersigned bidder hereby offers and agrees to purchase the Property as described in the accompanying Invitation for Bids (IFB) for the bid price entered above if this bid is accepted by the Government within two hundred and forty (2400) calendar days after the auction close date. This Bid Form is made subject to the terms of the IFB No. GSA-R-1635 including its Property Description, General Terms of Sale, Notices and Covenants, Bidder Registration and Bid Form for Purchase of Government Property and any associated amendments to the IFB, all of which are incorporated herein and by reference made a part of this initial bid..

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Send Registration Form With Registration Deposit to:**

U.S. General Services Administration  
Office of Real Property Utilization and Disposal (7PZ)  
Attn: William Rollings  
819 Taylor Street, Suite 8A10, Fort Worth, TX 76102



# **CERTIFICATE OF CORPORATE/ORGANIZATION BIDDER**

For use with Bidder Registration and Bid Form for Purchase of Government Real Property  
(See Paragraph 4, Instructions to Bidders, and Bid Executed On Behalf Of Bidder for instructions)

**Mountain Creek Industrial Center  
9314 W. Jefferson Blvd  
Grand Prairie, TX 75211**

I, \_\_\_\_\_, certify that I am \_\_\_\_\_  
(Secretary or Other Title)

of the Corporation/Organization named as bidder herein; that \_\_\_\_\_  
(Name of Authorized Representative)

who signed this Bid Form for Purchase of Government Property on behalf of the bidder was then

\_\_\_\_\_ of said Corporation/Organization; that said bid was  
(Official Title)

duly signed for and on behalf of said Corporation/Organization by authority of its governing body and is  
within the scope of its corporate/organization powers.

\_\_\_\_\_  
(Signature of Certifying Officer/Manager)

(Corporate Seal Here, if applicable)

# Sample Letter of Credit

[LETTERHEAD AND ADDRESS OF ISSUING BANK: As per the Invitation for Bid, issuing Bank must be a U.S. chartered bank and have branches within the State of Texas]

[Issue Date]

Irrevocable Standby Letter of Credit No. \_\_\_\_\_

Account party's name \_\_\_\_\_

Account party's address \_\_\_\_\_

For Invitation for Bid (IFB) No. GSA-1635

Expiration Date: February 29, 2012

To: U.S. General Services Administration  
Office of Real Property Utilization & Disposal (7PZ)  
819 Taylor Street, Room 8A10  
Ft. Worth, Texas 76102  
Attn: William Rollings, Realty Officer  
(817) 978-4324

*We hereby establish this irrevocable stand-by Letter of Credit no. \_\_\_\_\_ for the benefit of the UNITED STATES OF AMERICA ("Beneficiary") for the account of \_\_\_\_\_ ("Account Party") which we understand from the applicant is for the purchase of Government property entitled "Mountain Creek Industrial Center" up to an aggregate amount of \_\_\_\_\_ United States Dollars (insert appropriate amount, see Bidder Registration and Deposit, pg. 8) available by presentation at \_\_\_\_\_ [insert bank name and address] of the following documents:*

1. This irrevocable letter of credit.
2. Beneficiary's signed draft at sight drawn on us, stating "Drawn under irrevocable standby Letter of Credit no. \_\_\_\_\_, dated \_\_\_\_\_".
3. Beneficiary's statement on Beneficiary's letterhead signed by a Contracting Officer of Beneficiary, stating that: "The undersigned certifies that it is entitled to submit the accompanying draft under that certain Invitation for Bids GSA-1634, as the same may be amended from time to time."

This Irrevocable Letter of Credit expires on [same as above] and is payable at the counters of [insert issuing bank/confirming bank name and address].

*We hereby engage with you that all drafts accompanied by documents drawn under and in compliance with the terms of this letter of credit will be duly honored upon presentation as specified. We waive the right to defer the honor of any such drafts presented by you.*

*This letter of credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits (1993 revision) International Chamber of Commerce Publication No. 500 and, to the extent not inconsistent therewith, the laws of the State of California.*

*If this credit expires during an interruption of business of this financial institution as described in Article 17 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 days after the resumption of our business.*

[INSERT NAME OF ISSUING BANK]

By \_\_\_\_\_

Name:

Title:

[INSERT OR ATTACH NOTARY STAMP]



## **EXHIBIT A**

### **Hazardous Substance Activity**

## **EXHIBIT B**

### **Memorandum of Agreement With Texas SHPO**



**MEMORANDUM OF AGREEMENT  
AMONG THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE  
U.S. GENERAL SERVICES ADMINISTRATION, U.S. NAVY,  
AND THE TEXAS STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, DALLAS,  
TEXAS**

WHEREAS, the Naval Weapons Industrial Reserve Plant (NWIRP Dallas or the Property) is located within the city limits of the City of Dallas, Dallas County, Texas (hereinafter referred to as "NWIRP Dallas" or the "Property") and is a government-owned, contractor operated military industrial installation comprising approximately 314 acres of land, more or less; and,

WHEREAS, NWIRP Dallas, originally known as Plancor #25 is currently under the jurisdiction of the United States Navy (the "Navy"); and,

WHEREAS, the Navy has determined the NWIRP Dallas to be excess to its needs and is available for disposal as surplus to the needs of the United States of America; and,

WHEREAS, pursuant to the authority of the 40 U.S.C. §§ 541; et seq., as amended, and rules, orders, and regulations issued pursuant thereto, the Navy has requested and the U.S. General Services Administration (GSA) has accepted the authority and responsibility to dispose of NWIRP Dallas; and,

WHEREAS, the United States of America, acting by and through GSA and the Navy (hereinafter sometimes jointly referred to as the "United States"), and the Texas State Historic Preservation Officer (Texas SHPO), and the Navy acknowledge the contemplated action meets the definition of "undertaking" for the purpose of compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), (16 USC 470 et seq.), and implementing regulations 36 CFR 6(b)(2); and,

WHEREAS, the Advisory Council was invited to participate in consultation and declined participation (Exhibit 6); and

WHEREAS, the parties hereto pursuant to the *Criteria of Adverse Effect* (36 C.F.R. 800.5(a) (1)) agree that the contemplated disposal and transfer of NWIRP Dallas will have an adverse effect on historic properties; and this Memorandum of Agreement (MOA) is intended to resolve the adverse effect; and

WHEREAS, the Navy has completed inventories and investigations for all buildings and structures based on documentation, archival records and reconnaissance level archeological surveys, and developed and delivered to the Texas SHPO its *Integrated Cultural Resources Management Plan* ("ICRMP) for NWIRP Dallas; and,

*Enclosure (1)*

WHEREAS, based on review of the documentation, the United States and Texas SHPO have determined that no archeological sites are present; and;

WHEREAS, the United States acknowledges that buildings 1, 6, 7, 16, 49, 94 and 97 are historic properties that are eligible for inclusion in the National Register of Historic Properties (NRHP) under Criterion "A" for their association as Historic Military Properties of: (i) World War II and the Industrial Mobilization Era (1941-1947); (ii) the Cold War Era (1948-1989); and, (iii) the Post-Cold War Era (1990 to present); and,

WHEREAS, the United States and the Texas SHPO concur that the Area of Potential Effects (APE) for the transfer of the Property as defined in 36 C.F.R. 800.16(d) is limited to the boundaries of the NWIRP Dallas property as described in Exhibit 1; and,

WHEREAS, the parties to this agreement recognize GSA will ultimately transfer NWIRP Dallas to non-federal private development entities and that such ultimate transfer of NWIRP Dallas pursuant to 36 CFR 800.5(a)(2)(vii) incurs adverse effects on Buildings. 1, 6, 7, 16, 49, 94 and 97 illustrated in Exhibit 2; and,

WHEREAS, GSA is in the process of conducting a review process in accordance with the National Environmental Policy Act (NEPA) for the development of an Environmental Assessment for NWIRP Dallas, during which public involvement will be solicited for review of the effects of the disposal on historic properties and for consideration and development of historic properties reuse alternatives, including adaptive reuse; and,

WHEREAS, the GSA, the Navy, and the Texas SHPO concur that the United States can transfer title NWIRP Dallas to non-federal entities without further review under the NHPA, subject to the terms, conditions, and agreements hereafter set forth; and,

NOW THEREFORE, the United States, the Navy, GSA, and the Texas SHPO, agree that the referenced undertaking has the potential to affect historic properties at NWIRP Dallas and that the United States is committed to carrying out its responsibilities under Section 106 of the NHPA in accordance with the statements above and the following stipulations, thereby taking into account the effects of its property disposal activities on historic properties.

### **STIPULATIONS**

**The Navy shall ensure that the following measures are carried out:**

#### **I. Preservation and Maintenance of NWIRP Dallas Property Transferred to Non-Federal Ownership.**

During the disposal phase for NWIRP Dallas, the Navy, subject to available funding, agrees to continue to preserve and maintain all buildings eligible for listing in the



National Register of Historic Places located on NWIRP Dallas and will not permit waste or deterioration of such buildings.

## II. Documentation and Preservation of the NWIRP Dallas Historic Architectural Record.

The Navy shall acquire and document all past architectural records developed over the years concerning Facility Buildings 1, 6, 7, 16, 49, 94 and 97 located on NWIRP Dallas, including, but not limited drawings, blueprints, construction agreements, and correspondence, that are currently in the possession of Navy and Vought Aircraft Company, Inc and further agrees to work with the Texas SHPO in locating and establishing a suitable repository for such architectural records that will be available for public access.

## III. Navy Point of Contact.

The NAVFAC SE Historic Preservation Officer (Navy HPO) or his assign will serve as the point of contact for the historic preservation issues associated with the Navy for NWIRP Dallas.

**GSA shall ensure that the following measures are carried out:**

## IV. Transfer of Real Property That Contain Historic Properties

GSA agrees that in any ultimate conveyance of the Property to nonfederal ownership which includes Facility Buildings 1, 6, 7, 16, 49, 94 and 97, such conveyance shall contain the Historic Preservation Covenants in the clause form identified in Exhibit "3" and the Stipulations contained in Exhibit "4", "*General Stipulations, New Construction, Alteration, Demolition, or Adaptive Reuse of Character Defining Features within the NWIRP Dallas Property Boundary*", and Exhibit 5, "*List of Character-Defining Features*" which is hereby incorporated into this Agreement, and made a part hereof. Such covenants shall be made binding upon the ultimate nonfederal transferee, its successors and assigns, and shall run with the land.

## V. GSA Point of Contact.

The Director, GSA Office of Property Disposal Greater Southwest Region (7PZ), or his assign will serve as the point of contact for the historic preservation issues associated with GSA for NWIRP Dallas

**The Parties further agree as follows:**

## VI. Unanticipated Discoveries

If prior to federal transfer, any previously unidentified buildings, structures, sites, or objects are inadvertently discovered, evaluations will be performed to determine their eligibility for listing in the National Register.

If human remains are encountered at any time prior to transfer on any portion of the Property, the federal agency that discovered the remains, GSA or the Navy, will contact and consult with the Texas SHPO, in accordance with the Texas Antiquities Act, Title 9, Texas Natural Resources Code, Chapter 191. If the remains are determined to be of aboriginal origin, the requirements set forth under the Native American Graves Protection and Repatriation Act (NAGPRA) (43 CFR Part 10.4) will be followed.

If human remains are encountered at any time on any portion of the Property after transfer, the Grantee shall notify and consult with the Texas SHPO, in accordance with the Texas Antiquities Act, Title 9, Texas Natural Resources Code, Chapter 191. The Grantee will comply with any recommendations put forth by the Unmarked Burial Sites Preservation Board.

## VII. Dispute Resolution

Should any party to this agreement object at any time to any actions proposed pursuant to the agreement, or the manner in which the terms of this MOA are implemented, GSA and the Navy, will consult further with the objecting party to resolve the objection. If GSA and the Navy determine that such objection cannot be resolved, GSA and the Navy will forward all documentation relevant to the dispute to the Council including the GSA and Navy recommended resolution of the objection. Within 45 calendar days after receipt of all pertinent documentation, the Council will either:

1. Advise GSA and the Navy that it concurs with the GSA and the Navy recommended resolution, whereupon GSA and the Navy will respond to the objection accordingly; or
2. Provide GSA and the Navy with recommendations, which GSA and the Navy will consider in reaching a final decision regarding the dispute; or
3. Notify GSA and the Navy that it will comment pursuant to 36 CFR 800.7(c), and proceed to comment on the subject in dispute. Any Council comment provided in response to such a request will be considered by GSA and the Navy in accordance with 36 CFR 800.7(c)(4) with reference only to the subject of the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute, and the responsibility of GSA and the Navy to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.

If the Council fails to provide recommendations or to comment within the specified time period, GSA and the Navy may implement the action subject to dispute under this Stipulation in accordance with its recommended resolution.



The GSA and the Navy responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. The GSA and the Navy will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute under this stipulation. The GSA and Navy decision will be final.

#### VIII. Amendments and Noncompliance

If any signatory to this MOA determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the other signatories to develop an amendment to this MOA pursuant to 36 CFR Part 800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all of the original signatories is filed with the Council. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation XIV, below.

#### IX. Assignment

The parties to the MOA further understand and agree in a conveyance of any of the property hereinabove described, the SHPO may, at its discretion and without prior notice to the United States and/or any ultimate transferee of such property, convey and assign the enforcement of the historical covenants described in Exhibit 3 and general stipulations described in Exhibit 4 to a similar local, state or national organization under Section 170 (h)(3) of the Internal Revenue Code, provided that any such conveyance or assignment requires that conservation purposes for which the historical covenants were granted will continue to be carried out.

#### ~~X. XIV.~~ Termination

If this MOA is not amended following the consultation set out in Stipulation XII, it may be terminated by any signatory (United States, GSA, the Navy, the Council, or the Texas SHPO). Within 30 days following termination, the GSA and Navy shall notify the signatories if it will initiate consultation to execute an MOA with signatories under 36 CFR §800.6(c)(1), or request the comments of the Council under 36 CFR §800.7(a) and proceed accordingly.

This MOA is executed by the following Federal and State agencies: GSA, the Navy, the ~~Council~~, and the Texas SHPO. The implementation of this MOA and its terms provide evidence that the GSA and the Navy has completed the Section 106 process by taking into account the effects of this undertaking on historic properties and affording the Council an opportunity to comment.

#### ~~XI.~~ XV. ANTI-DEFICIENCY ACT

Any requirement for the payment or obligation of funds by the Government established by the terms of this agreement shall be subject to the availability of appropriated funds.

No provision in this agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 USC Section 1341.

**SIGNATORIES:**

**UNITED STATES OF AMERICA**

Acting By and Through the U.S. General Services Administration



Date: 12/6/10

Melvin Freeman, Director  
Real Property Utilization and Disposal Division  
Public Buildings Service, Greater Southwest Region (7PZ)

**UNITED STATES NAVY**

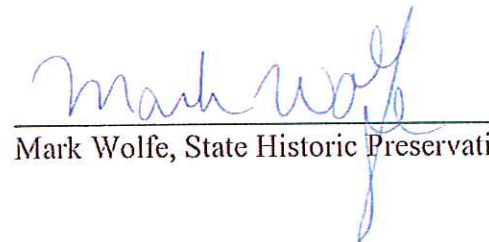
By Direction Authority of the Command



Date: 11/15/10

William F. Cords, P.E., Director  
Infrastructure Business Operations Naval Air Systems Command Patuxent River, MD

**TEXAS STATE HISTORIC PRESERVATION OFFICE  
TEXAS HISTORICAL COMMISSION, INC.**



Date: 11/8/10

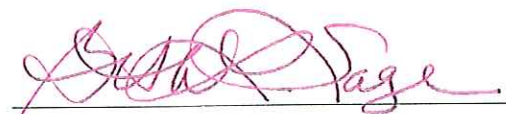
Mark Wolfe, State Historic Preservation Officer



## SIGNATORIES

### UNITED STATES OF AMERICA

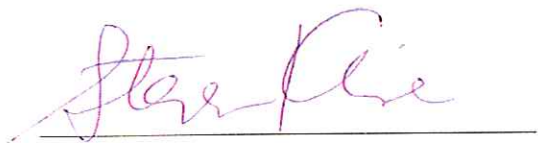
Acting By and Through the U.S. General Services Administration



Date 12/1/10

Beth L. Savage, Federal Preservation Officer  
Historic Buildings Division

### CONCURRING



Date 12/6/10

Steven Kline  
Regional Historic Preservation Officer  
Southwest Sunbelt Region

## Exhibit 1 – NWIRP Dallas Legal Description

### Legal Description – Tract 1 - Vought Manufacturing Facility:

BEING a 314.880 acre tract of land situated in the Perry Finney Survey, Abstract No. 777, the Rowland Huitt Survey, Abstract No 616, the Elizabeth Crockett Survey, Abstract No. 222 and the John W. Kirk Survey, Abstract No 726, the City of Dallas, Dallas County, Texas and being all of those certain tracts of land described as FIRST TRACT, THIRD TRACT, FOURTH TRACT, FIFTH TRACT, SIXTH TRACT and the remainder of called SECOND TRACT as described to the United States of America (USA) by deed recorded in Volume 2918, Page 515 of the Deed Records of Dallas County, Texas (DRDCT) and all of that called 43.94 acre tract of land described to USA by deed recorded in Volume 3879, Page 552, DRDCT, said 314.880 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a brass monument (controlling monument) found for the northeast corner of said FIFTH TRACT and northwest corner of the remainder of a called 75.3 acre tract of land described to the City of Dallas by deed recorded in Volume 2274, Page 632, DRDCT and also being in the southerly right-of-way line of Jefferson Avenue (a variable width right-of- way);

THENCE, South 00°26'56" East, along the easterly line of said FIFTH TRACT and the westerly line of the remainder of said 75.3 acre tract of land and along the easterly line of said 43.94 acre tract of land, the westerly line of that certain tract of land described as TRACT NO 1 to the City of Dallas by deed recorded in Volume 2274, Page 629, DRDCT and the westerly line of a called 347 acre tract of land described to the City of Dallas by deed recorded in Volume 2691, Page 315, DRDCT, a distance of 2795.44 feet to a brass monument (controlling monument) found for the southeast corner of said 43.94 acre tract of land and a southwest corner of said 347 acre tract of land and being in the northerly line of the remainder of that certain tract of land described as FIFTH TRACT to Dallas Power and Light Company by deed recorded in Volume 1992, Page 1, DRDCT;

THENCE, along the southerly line of said 43.94 acre tract of land and the northerly line of said remainder of FIFTH TRACT, the following five courses and distances:

- North 80°18'20" West, a distance of 329.36 feet to a point for corner;
- South 56°20'40" West, a distance of 91.97 feet to a point for corner;
- South 89°54'40" West, a distance of 308.50 feet to a point for corner;
- North 79°48'20" West, a distance of 359.60 feet to a point for corner;
- North 71°22'10" West, a distance of 315.98 feet to a point for corner in the approximate shore line of Mountain Creek Lake;

THENCE, along the approximate shore line of Mountain Creek Lake, the following six courses and distances:

- South 00°32'20" East, a distance of 519.36 feet to a point for corner;
- South 83°55'36" West, a distance of 156.86 feet to a point for corner;
- South 26°57'10" West, a distance of 213.22 feet to a point for corner;
- South 41°04'15" West, a distance of 128.12 feet to a point for corner;



South 67°43'33" West, a distance of 205.50 feet to a point for corner;

North 81°04'56" West, a distance of 59.37 feet to the southernmost southwest corner of, said FIRST TRACT and easternmost southeast corner of that certain tract of land described as TRACT to Vought Aircraft Industries, Inc. by deed recorded in Volume 2000146, Page 3042, DRDCT;

THENCE, North 01°17'28" West, along a westerly line of said FIRST TRACT and the easterly line of said TRACT III, a distance of 266.00 feet to an interior ell corner of said FIRST TRACT and the northeast corner of said TRACT III;

THENCE South 88°42'32" West, along a southerly line of said FIRST TRACT and the northerly line of said TRACT III, a distance of 511.20 feet to the southwest corner of said FIRST TRACT and the northwest corner of said TRACT III and being in the easterly line of said FOURTH TRACT;

THENCE, South 01°11'28" East, along the easterly line of said FOURTH TRACT and the westerly line of said TRACT III, a distance of 648.13 feet to the southeast corner of said FOURTH TRACT and being in the northerly right-of-way line of Skyline Road (a 100 foot right-of-way);

THENCE, North 89°51'01" West, along the southerly line of said FOURTH TRACT and the northerly right-of-way line of said Skyline Drive and along the southerly line of said remainder of SECOND TRACT, a distance of 1001.31 feet to the southwest corner of said remainder of SECOND TRACT and the southeast corner of a called 21.0251 acre tract of land described to the City of Grand Prairie by deed recorded in Volume 792, Page 252, DRDCT;

THENCE, North 01°26'12" West, along the westerly line of said remainder of SECOND TRACT and the easterly line of said 21.0251 acre tract of land and along the easterly line of a called 9.96 acre tract of land described to Sid Sharbaf by deed recorded in Volume 2004043, Page 14865, DRDCT, a distance of 1126.25 feet to the northwest corner of said remainder of SECOND TRACT and the northeast corner of said 9.96 acre tract of land and being in the southerly line of said THIRD TRACT;

THENCE, South 89°34'27" West, along the southerly line of said THIRD TRACT and the northerly line of said 9.96 acre tract of land and along the northerly line of that certain tract of land described as 1R by final plat of LOTS 1R AND 2R, BLOCK 2, SOL SPIGEL VILLAGE, FIRST INCREMENT, an addition to the City of Grand Prairie recorded in Volume 80247, Page 770, DRDCT, a distance of 1114.57 feet to the southwest corner of said THIRD TRACT and the northwest corner of said 1R and being in the easterly right-of-way line of SE 14th Street (a variable width right-of-way);

THENCE, North 00°28'33" West, along the westerly line of said THIRD TRACT and the easterly right-of-way line of said SE 14th Street and along the westerly line of said FIRST TRACT, a distance of 2470.42 feet to the northwest corner of said FIRST TRACT and being in the southerly right-of-way line of aforementioned Jefferson Avenue;

THENCE, North 85°59'56" East, along the northerly line of said FIRST TRACT and the

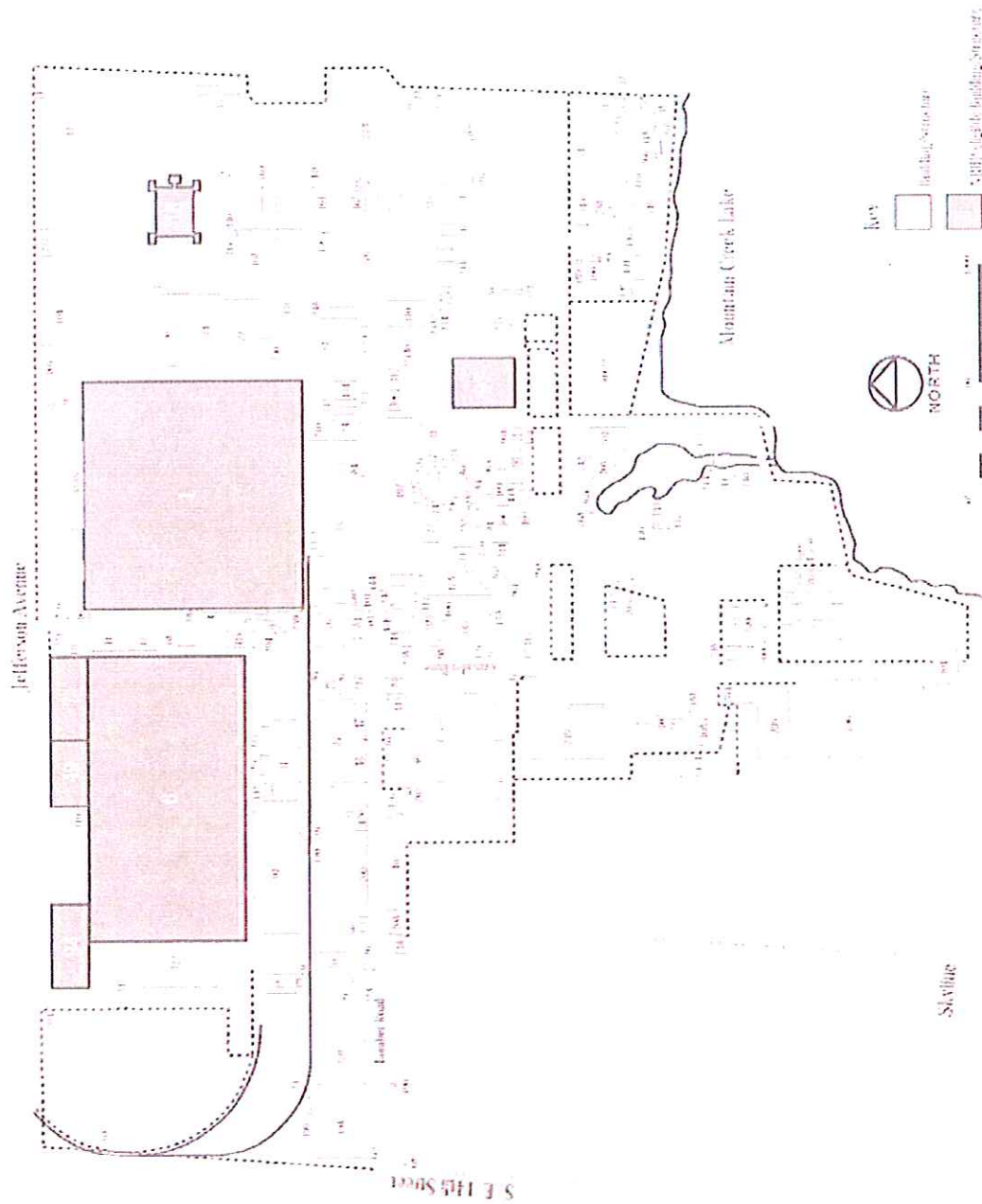
southerly right-of-way line of said Jefferson Avenue, a distance of 4601.18 feet to the POINT OF BEGINNING;

CONTAINING a calculated area of 13,716,154 square feet or 314.880 acres of land, more or less.

The tract of land herein described was taken from the survey conducted by Lyndon M. Hodgin, a Registered Professional Land Surveyor, Texas Registration Number 4584, dated November 29, 2007.



EXHIBIT 2 -NWIRP Dallas – Site Map with Locations of Buildings 1, 6, 7, 16, 49, 94 and 97



**EXHIBIT 3  
PRESERVATION COVENANT  
FOR THE  
CONVEYANCE OF HISTORIC PROPERTIES  
AT NWIRP DALLAS**

The Grantee covenants for itself, its successors and assigns, and every successor in interest to the property hereby conveyed, for the property so designated "NWIRP DALLAS" containing 314 acres, more or less, or any part thereof, that the real property above described is hereby conveyed subject to the conditions, restrictions, and limitations hereinafter set forth, which are covenants running with the land; that the Grantee, its successors and assigns, covenants and agrees, that in the event the property, or any part thereof, is sold or otherwise disposed of, these covenants and restrictions are hereto attached and made a part hereof:

1. Buildings 1, 6, 7, 16, 49, 94, and 97 situated on said real property will be preserved and maintained in consultation with the State of Texas Preservation Officer (SHPO). Any proposed material rehabilitations, adaptive reuses, changes, alterations, or demolition of Buildings 1, 6, 7, 16, 49, 94, and 97 that would adversely impact the Character-Defining Features of such identified buildings located on said real property as further described in Exhibits 4 and 5, below, must be completed in consultation with the SHPO, following the process detailed in the General Stipulations attached to this covenant, and shall be performed in keeping with the Secretary's of the Interior's Standards for Rehabilitation, U.S. Department of the Interior, National Park Service, 1995. The SHPO will also be consulted on any other undertakings on the property that introduce visual, atmospheric or audible elements that diminish the integrity of the significant historic features of Buildings 1, 6, 7, 16, 49, 94, and 97.

2. No physical or structural changes or changes of color or surfacing will be made to the exterior of Buildings 1, 6, 7, 16, 49, 94, and 97 and architecturally or historically significant interior features without consulting with the SHPO.

3. Any unanticipated discoveries of Archaeological resources on said real property hereinafter made by Grantee, its successors and assigns, shall be protected and preserved in place. If such resources must be disturbed, mitigation measures must be undertaken in consultation with the SHPO in compliance with applicable State and Federal Statutes that deal with the treatment of archeological resources.

4. In the event of violation of the above restrictions, the SHPO may institute a suit against the property owner to enjoin such violation or for damages by reason of any breach thereof.

5. These restrictions shall be binding on the Parties hereto, their successors, and assigns in perpetuity; however the SHPO may for good cause, and with relevant concurrence by the Advisory Council on Historic Preservation (ACHP), modify or cancel any or all of the foregoing restrictions upon written application of the Grantee, its



successors or assigns.

6. The acceptance of the delivery of this deed shall constitute conclusive evidence of the agreement of the Grantee to be bound by the conditions, restrictions, and limitations, and to perform the obligations herein set forth.

7. Any development or redevelopment of Buildings 1, 6, 7, 16, 49, 94 and shall be in compliance with The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and plans shall be approved by the SHPO for guidance in planning the development and redevelopment of Buildings 1, 6, 7, 16, 49, 94, and 97. If the Owner and the SHPO are unable to agree on the proposed development, the Owner shall forward all relevant documentation to the ACHP. The Owner, SHPO, and the ACHP shall reach an agreement regarding the proposed development.

## Exhibit 4

### GENERAL STIPULATIONS

#### NEW CONSTRUCTION, ALTERATION, DEMOLITION OR ADAPTIVE REUSE OF CHARACTER DEFINING FEATURES WITHIN THE NWIRP DALLAS PROPERTY BOUNDARY

**Rehabilitations according to Secretary of the Interior's Standards:** Future property owners agree under these stipulations that all rehabilitations or alterations to Character Defining Features at NWIRP Dallas shall be performed in accordance with the *Secretary's of the Interior's Standards for Rehabilitation*, U.S. Department of the Interior, National Park Service, 1995. Necessary repairs and routine maintenance that do not materially affect historic features shall not be considered alterations under this stipulation. Covenants enforcing this stipulation shall be written into the deed transferring the property and shall obligate all future heirs, successors or assignees to the property. The process outlined below applies to the treatment of Character Defining Features and is outlined to provide a process that will address necessary undertakings and alterations that may be required by a subsequent property owner.

Since property changes over time, it is necessary that potential changes be considered while at the same time respecting the historic character of the property. Adaptive use of the property may require changes, and various laws that impact the health and safety of the building and its' occupants may also require changes. Because of the ever increasing requirements to operate facilities in a sustainable manner, some flexibility will be needed by future owners so that the property can remain economically viable. More specifically, new building materials, climate control systems, and energy efficient products will become more widely available and sometimes required by statute. These requirements may impact some of the Character Defining Features of the property. Future changes shall also consider the economic and technical feasibility of the property in the market place. These considerations shall be applied to any proposed alteration in a reasonable manner with proper respect for these features and consideration of alternatives before any final decision is made on any proposed change to a Character Defining Feature.

**Outlining the Process for Alteration of a Historic Feature:** The process outlined below explains the future treatment of Character Defining Features of the seven identified historic buildings eligible for inclusion for the *National Register of Historic Places* located at NWIRP Dallas. It explains how the Character Defining Features for said buildings will be protected post transfer. The Character Defining Features are listed on Exhibit 5. All Character Defining Features will be subject to the process outlined below if alteration of these features is proposed by a future owner.

Future undertakings or alterations to a Character Defining Feature will require the non-federal property owner to consult with the Texas State Historic Preservation Office (SHPO) prior to taking any action that may alter a previously defined Character Defining



Feature. The property owner must submit the proposed alteration project in writing to the SHPO early in the planning phase. This submission shall include the details of the alteration including architectural drawings, the need for this change, and explain what other options were considered and why they were determined not feasible. The Texas SHPO has 30-days to provide written comment. If the SHPO approves, the action can proceed. If written comment is not received in the 30-day period, the property owner can assume concurrence and proceed with the action.

If the SHPO objects to the proposed alteration, the property owner has 30 days to respond to that objection, and both parties are required to consult and attempt to resolve the issue. If after 30-days the issue is not resolved, then the proposal is forwarded to the Advisory Council on Historic Preservation (Council) and to the Preservation Officer at GSA, and both offices will provide written comment. A written opinion shall be provided by both the Council and GSA within a period of 30 days. If the issues are still not resolved, the property owner shall submit the final plan, including any changes to the plan as a result of the consultations, to the Texas SHPO, to the Council, and to GSA. The SHPO then has 30 additional days to provide final comment to all parties, and after this 30-day period the property owner may proceed with the proposal. HABS/HAER equivalent documentation will be required of the impacted feature and submitted to the SHPO for permanent curation. The procedure described under this stipulation shall take effect upon transfer of NWIRP out of Federal ownership.

**Rehabilitations according to Secretary of the Interior's Standards:** The GSA, SHPO, and the Council, FCPA, and FCPS agree that all rehabilitations or alterations of contributing structures at the site shall be performed in accordance with the Secretary's of the Interior's Standards for Rehabilitation, U.S. Department of the Interior, National Park Service, 1995. All plans and proposals for alterations to Character Defining Features shall be reviewed by the SHPO with an opportunity for review and comment afforded to both the Council and GSA.

**Photographic documentation:** If in the future, a Character Defining Feature is to be adversely affected, the party proposing the undertaking shall agree that any Feature adversely affected shall be documented using HABS/HAER equivalent documentation standards and submitted to the SHPO for permanent curation prior to the undertaking. The level of documentation, number and angle of photographic views, necessary drawings, and amount of history and context shall be coordinated with the SHPO prior to the taking of the photographs and completed photos shall be approved by the SHPO prior to the undertaking. The HABS/HAER equivalent documentation shall be the responsibility of the party proposing the undertaking.

# Exhibit 5 - CHARACTER DEFINING FEATURES – NWIRP

Building Number	1	6	7	16	49	94	97
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## FEATURES BELOW

Maintain Relationship with other Buildings	X	X	X	X	X	X	X
Maintain Blackout Type construction	X	X	X	X	X	X	
Maintain Concrete Slab on Grade	X	X		X	X	X	X
Maintain Steel Frame Construction	X		X			X	X
Maintain Exterior Concrete and Box Rib Steel Panels	X	X	X	X	X	X	X
Maintain Historic Doors and Systems	X	X	X		X	X	X
Maintain Roof System (can not change pitch)	X				X		
Maintain Passageway between Building 1 & 6*	X	X					
Maintain Concrete Columns		X		X	X		
Maintain Built up Roof, Gambrel with Parapet		X		X			
Maintain Concrete Bomb Baffles*	X	X	X				
Maintain Large Open Interior Space		X		X			
Maintain Decorative Entrance Doors*	X	X	X				
Maintain Interior Concrete Mushroom Columns*		X					
Maintain Interior Sliding Fire Doors and Masonry Walls that support those doors*		X					
Maintain Concrete with Basement			X				
Maintain Flat Build Up Roofing System			X			X	
Maintain Cantilevered Canopy*			X				
Maintain 16 Retractable Doors with Pilot Door				X			
Maintain Historic Windows, Steel Sash + Fixed Aluminum							X
Maintain Multilevel Roofing System							X
Maintain Underground Scale (does not have to operate)							X
Maintain Elevated Fire Door (does not have to be functional)							X
Maintain Exterior, No Sandblasting	X	X	X	X	X	X	X

\*Photographs of these features are attached



## Exhibit 5 Photographs of Character Defining Features



Passageway between Building 1 and 6



Concrete Bomb Baffles



Concrete Bomb Baffle with Decorative Entrance Door



Decorative Entrance Doors





Interior Concrete Mushroom Columns



Interior Sliding Fire Doors and Masonry Wall

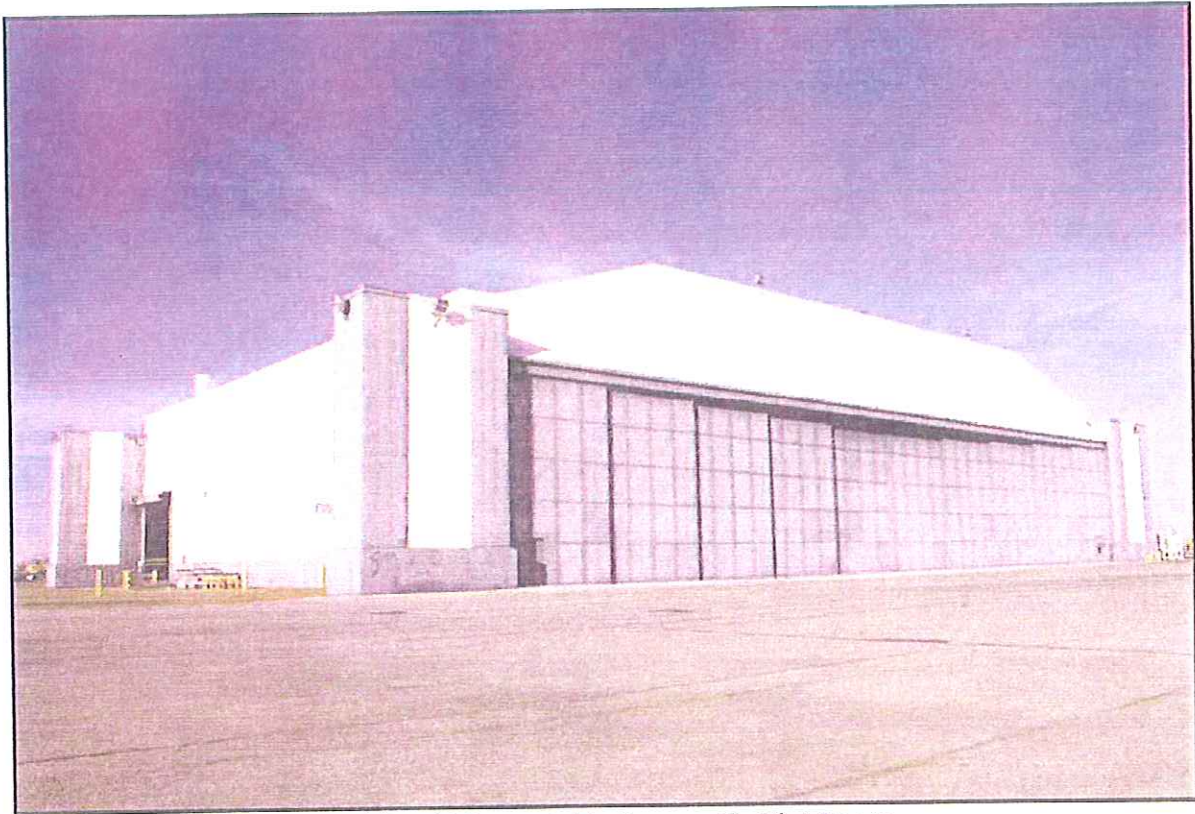


Interior Sliding Fire Doors and Masonry Wall



Cantilevered Canopy





Building 16 Retractable Doors with Pilot Doors

Exhibit 6  
Advisory Council on Historic Preservation Letter



*Administrative Information - Internal Use Only*

August 11, 2010

Mr. C. R. Destafney  
PE Regional Environmental Director  
Department of the Navy  
Commander Navy Region Southeast  
Box 102, Naval Air Station  
Jacksonville, FL 32212-0102

*Ref: Proposed Transfer and Divestiture of NWIRP Dallas  
Dallas, Dallas County, Texas*

Dear Mr. Destafney:

On August 3, 2010, the Advisory Council on Historic Preservation (ACHP) received the additional information in support of your notification of adverse effects of the referenced project on the properties listed on and eligible for listing in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the Texas State SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the opportunity to review this undertaking. If you have any questions, please contact Louise Brodnitz at 202-606-8527, or via email at [brodnitz@achp.gov](mailto:brodnitz@achp.gov).

Sincerely,

Raymond V. Wallace  
Historic Preservation Technician  
Office of Federal Agency Programs

*Administrative Information - Internal Use Only*